

Chapter HFS 163

CERTIFICATION FOR THE IDENTIFICATION, REMOVAL AND REDUCTION OF LEAD-BASED PAINT HAZARDS

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Note: Chapter HFS 163 was created as an emergency rule effective February 18, 1997 and was created as a permanent rule Register, October, 1997, No. 502, effective November 1, 1997. Chapter HFS 163 was repealed and recreated by emergency rule effective August 29, 1998. Chapter HFS 163 as it existed on April 30, 1999 was repealed and a new chapter HFS 163 was created, Register, April, 1999, No. 520, effective May 1, 1999.

Subchapter I — General Provisions

HFS 163.01 Authority and purpose. This chapter is promulgated under the authority of ss. 250.04 (7), 254.167, 254.172, 254.176 (1) and (3) and 254.178 (2) Stats., to ensure that persons who perform lead-based paint activities do so safely to prevent exposure of building occupants to hazardous levels of lead. This is accomplished by requiring that before a person performs, supervises or offers to perform or supervise a lead-based paint activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, the person shall successfully meet the requirements of this chapter and have documentation of certification issued by the department. A homeowner is not required to be certified except as specified under s. HFS 163.10 (1) (a) 3. or 4., (b) or (c). This chapter also requires that a training course that is represented as qualifying any person for certification in this state as a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner be accredited by the department before the training course is offered, advertised or conducted and that training managers and instructors be separately approved by the department.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.02 Scope. (1) **APPLICABILITY.** (a) This subchapter, subch. II and subch. IV apply to any person performing, supervising or offering to perform or supervise a lead-based paint activity involving target housing or a child-occupied facility or the real property on which the target housing or child-occupied facility stands, when certification is required under s. HFS 163.10 (1), and to any person performing any activity involving lead-based paint or a lead hazard when certification is required under a contract or under an order issued by a court, the department, another state agency or a local agency.

(b) This subchapter, subch. III, subch. IV and Appendix A apply to any person or organization that offers, advertises, conducts or teaches a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner training course leading to certification by the department.

(2) **APPROVED ALTERNATIVE TO A REQUIREMENT.** The department may approve an alternative to any requirement in this chapter that is not a statutory requirement when the department is pro-

vided with satisfactory written proof that the alternative is as protective of human health and the environment as the original requirement. A request for approval of an alternative shall be in writing, shall be sent to the department and shall include justification for the alternative and how it is as protective as the requirement. The department shall approve or deny the alternative or request additional information within 20 days of receipt of the request for approval. If granted, the department shall send the applicant a written notice of approval which may include limits on the approval.

Note: Submit your request for approval of an alternative to a requirement to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.03 Definitions. In this chapter:

(1) "Abatement" means any measure, set of measures or project designed or intended to permanently eliminate lead-based paint hazards, and is further defined as follows:

(a) "Abatement" includes, but is not limited to, one or more of the following activities:

1. Removal of lead-based paint or lead-contaminated dust.
2. Enclosure or encapsulation of lead-based paint.
3. Replacement of lead-based painted surfaces or fixtures.
4. Removal or covering of lead-contaminated soil.
5. All preparation associated with an abatement.
6. Cleanup associated with an abatement.
7. Preparation for disposal of waste from an abatement.

(b) An abatement project includes, but is not limited to, one of the following projects:

1. A project for which there is a written contract or other documentation which provides that a person will be conducting an activity in or to target housing or a child-occupied facility when the contract or other documentation indicates the project meets one of the following criteria:

a. The project will result in the permanent elimination of a lead-based paint hazard.

b. The project is designed to permanently eliminate a lead-based paint hazard and includes one or more of the activities described in this paragraph or par. (a).

2. A project resulting in the permanent elimination of a lead-based paint hazard, conducted by a person certified by the department under this chapter, unless the project is covered by par. (c).

3. A project resulting in the permanent elimination of a lead-based paint hazard, conducted by a person who, through their

name or promotional literature, represent, advertise or hold themselves out to be in the business of performing lead-based paint activities as identified and defined by this section, unless the project is covered by par. (c).

4. A project conducted in response to a state or local government abatement order that results in the permanent elimination of a lead-based paint hazard.

5. A project conducted in response to a request for an abatement activity or which the contractor claims to be an abatement.

(c) "Abatement" does not include interim controls, operations and maintenance activities or other measures and activities designed to temporarily, but not permanently, reduce lead-based paint hazards. Furthermore, "abatement" does not include renovation, remodeling, landscaping or other activities, when the activities are not designed to permanently eliminate a lead-based paint hazard but, instead, are designed solely to repair, restore or remodel a given structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

Note: While not an abatement activity, under s. HFS 163.14 (6) clearance must be conducted by a certified lead (Pb) inspector or risk assessor and clearance levels met before abatement is considered finished.

(2) "Accreditation" means an approval status granted by the department to a training course meeting the requirements under subchs. I and III and Appendix A. Accreditation may be either contingent accreditation or full accreditation.

(3) "Accreditation audit" means an audit of a training course or training course provider conducted by department staff to review for compliance with this chapter.

(4) "Adequate quality control" means a plan or design which ensures the authenticity, integrity and accuracy of samples, including dust, soil and paint chip or paint film samples and includes provisions for representative sampling.

(5) "Certification" means an approval status granted by the department to an individual or lead (Pb) company meeting the conditions for certification under subchs. I and II.

(6) "Certification examination" means a written, closed-book examination administered to an applicant for certification by the department or under the authority of the department, but not administered by a training provider, which evaluates the applicant's knowledge of information necessary to properly perform work in a specific discipline.

(7) "Certification period" means the period of time for which certification is granted by the department.

(8) "Child-occupied facility" means a facility licensed by the department to provide day care services, any public or private school or preschool attended by children younger than 6 years of age, including a state-operated residential treatment center, or a building or portion of a building constructed prior to 1978, visited by the same child, under 6 years of age, on at least 2 different days within any week, Sunday through Saturday, provided that each day's visit lasts at least 3 hours and the combined annual visits last at least 60 hours.

(9) "Clearance" means the visual examination or sampling conducted after a lead abatement or other lead hazard reduction activity to determine whether or not the activity and cleanup have been successfully completed.

(10) "Clearance level" means the value that indicates the maximum amount of lead permitted in dust on a surface following completion of an abatement activity.

(11) "Common area" means a portion of a building or the building's real property that is generally accessible to all occupants.

Note: Examples of common areas are a hallway, stairway, laundry room, recreation room, playground, community center, garage and boundary fence.

(12) "Component" or "building component" means a specific design or structural element or fixture of a building, residential

dwelling or child-occupied facility that is distinguished from another by form, function or location.

Note: Examples of an interior component are ceiling, crown molding, wall, chair rail, door, door trim, floor, fireplace, radiator or other heating unit, shelf, shelf support, stair tread, stair riser, stair stringer, newel post, railing cap, balustrade, window and trim (including sash, window head, jamb, sill or stool and trough), built-in cabinet, column, beam, bathroom vanity, counter top and air conditioner.

Examples of an exterior component are painted roofing, chimney, flashing, gutter, downspout, ceiling, soffit, fascia, rake board, cornerboard, bulkhead, door and door trim, fence, floor, joist, lattice work, railing, railing cap, siding, handrail, stair riser, stair tread, stair stringer, column, balustrade, window sill, window stool, window trough or well, casing, sash and air conditioner.

(13) "Containment" means a process to protect workers, occupants and the environment by controlling exposures to the lead-contaminated dust and debris created during a lead hazard reduction activity.

Note: Examples of containment are a temporary structure built around an abatement site and a restricted area marked off with plastic, tape or signs.

(14) "Contingent accreditation" means a temporary approval status granted by the department to a training course for a specific discipline on the basis of a desk audit of accreditation application materials for compliance with subchs. I and III and Appendix A.

(15) "Course agenda" means an outline of the key topics to be covered during a training course, including the time allotted to teach each topic.

(16) "Course test" means a written, closed-book test administered by a training provider at the end of a course which is intended to evaluate trainees' knowledge and retention of the topics covered during the training course.

(17) "Course test blueprint" means written documentation identifying the proportion of course test questions devoted to each major topic in the course curriculum.

(18) "Department" means the Wisconsin department of health and family services.

(19) "Deteriorated paint" means paint that is cracking, flaking, chipping, peeling or otherwise separating from the substrate of a building component.

(20) "Direct supervision" means supervision by an individual who is on-site and readily available to observe and assist.

(21) "Discipline" means one of the specific job categories in s. HFS 163.10 (2) in which individuals are trained and become certified by the department.

(22) "Distinct paint history" means the paint application history, as indicated by its visual appearance or a record of the application of paint or other surface coatings to a component or room.

(23) "Documented methodologies" means generally used and accepted methods or protocols for lead hazard reduction and lead management.

Note: Documented methodologies include the following: The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint Hazards in Housing; the EPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil; the EPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling (EPA report number 7474-R-95-001); regulations, guidance, methods or protocols issued by States and Indian Tribes that have been authorized by EPA; and other equivalent methods and guidelines. To request federal documents, contact HUD USER by telephone at 800-245-2691 or the National Lead Information Clearinghouse by telephone at 800-424-5323 or by fax at (202) 659-1192.

(24) "Dwelling" means any structure, all or part of which is designed or used for human habitation.

(25) "Encapsulant" means a substance that forms a barrier between lead-based paint and the environment using a liquid-applied coating, with or without reinforcement materials or an adhesively bonded covering material.

(26) "Encapsulation" means the process of making lead-based paint inaccessible by the application of a special substance that forms a barrier between lead-based paint and the environment. This is done by using an adhesively bonded covering material or a liquid-applied coating, with or without reinforcement materials.

(27) "Enclosure" means the use of rigid, durable construction materials that are mechanically fastened to the substrate, with all edges and seams sealed with caulk or other sealant in order to act as a barrier between lead-based paint and the environment.

(28) "EPA" means the U.S. environmental protection agency.

(29) "Full accreditation" means an approval status granted by the department to a training course for a specific discipline subsequent to contingent accreditation, which is granted on the basis of an on-site accreditation audit finding of compliance with subchs. I and III and Appendix A.

(30) "General supervision" means assistance and oversight provided by a person who is either on site or in contact with and readily available to the person being supervised.

(31) "Guest instructor" means an individual who teaches under the direct supervision of a principal instructor or assists the principal instructor with hands-on activities or work practice components of a course.

(32) "Hands-on skills assessment" means an evaluation which tests a trainee's ability to satisfactorily perform work practices and hands-on activities, as well as any other skill taught in a training course.

(33) "Hazardous waste" means a solid waste that fits the definition of hazardous waste in s. NR 605.04 and that is not excluded by the provisions of s. NR 605.05.

(34) "HUD" means the U.S. department of housing and urban development.

(35) "HUD LBP grant-funded" means funded by a lead-based paint hazard control grant from the HUD office of lead-based paint abatement and poisoning prevention, which was awarded to fund lead-based paint hazard reduction or lead management activities.

(36) "Initial certification" means the first certification that an individual is granted by the department for a specific discipline or a certification granted after a lapse in certification of 12 months or more.

(37) "Interim certification" means a temporary status the department may grant to an individual who has applied for lead (Pb) supervisor, inspector or risk assessor certification and is qualified to take a certification examination but is not yet eligible for initial certification.

(38) "Interim control activity" means any measure or set of measures designed to temporarily reduce human exposure or likely exposure to a lead-based paint hazard.

(39) "Lead-based paint" or "LBP" means paint or any other surface coating material containing more than 0.06% lead by weight or more than 0.7 milligrams lead per square centimeter.

Note: This definition means that Wisconsin considers paint to be lead-based paint when it contains a lower amount of lead than the amount of lead in the U.S. EPA/HUD definition of lead-based paint.

(40) "Lead-based paint activity" means an abatement, HUD LBP grant-funded lead hazard reduction activity, clearance, inspection, lead hazard screen, risk assessment or project design activity, including development of an occupant protection plan.

(41) "Lead-based paint hazard" means any condition that causes exposure to lead from lead-contaminated dust, lead-contaminated soil or lead-based paint that is deteriorated or present in accessible surfaces, friction surfaces or impact surfaces that would result in adverse human health effects.

(42) "Lead (Pb) company" means a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity that performs, supervises, advertises, claims to provide or offers to perform or supervise a lead-based paint activity.

(43) "Lead-contaminated dust" means surface dust that contains lead.

Note: The maximum amount of lead allowed in dust following an abatement project is specified in s. HFS 163.14 (6) (h).

(44) "Lead-contaminated soil" means bare soil that contains lead at or in excess of levels established by the Wisconsin department of natural resources under s. NR 720.11.

Note: The Department recommends soil with lead levels above 5,000 Fg/g be removed or paved over. The Wisconsin Department of Natural Resources (DNR) standard for nonindustrial lead in soil under NR 720.11, Table 2, is 50 parts per million. For additional information, contact the DNR at (608) 266-5425.

(45) "Lead hazard" means any substance, surface or object that contains lead and that, due to its condition, location or nature, may contribute to the lead poisoning or lead exposure of a child under 6 years of age.

(46) "Lead hazard reduction activity" means any action designed to permanently or temporarily reduce or eliminate human exposure to lead-based paint hazards through methods that include abatement or interim control activities.

(47) "Lead hazard screen" means a risk assessment activity to determine whether a dwelling or child-occupied facility in good condition should have a full risk assessment. A lead hazard screen involves less paint or dust sampling or testing than in a risk assessment.

(48) "Lead inspection" means the on-site, surface-by-surface investigation of painted, varnished or other coated surfaces to determine the presence of lead.

(49) "Lead (Pb) inspector" means an individual who conducts lead inspections or clearances or writes inspection reports.

(50) "Lead management activity" means all or part of a lead inspection, lead hazard screen, risk assessment, clearance or project design, including development of an occupant protection plan.

(51) "Lead poisoning" means a level of lead in the blood of 10 or more micrograms per 100 milliliters of blood.

(52) "Lead (Pb) project designer" means an individual who designs abatement or HUD LBP grant-funded hazard reduction projects and who may also write occupant protection plans or abatement reports.

(53) "Lead risk assessment" or "risk assessment" means an on-site investigation of paint, dust, water or other environmental media to determine the existence, nature, severity and location of lead hazards.

(54) "Lead (Pb) risk assessor" means an individual who conducts lead hazard screens or lead risk assessments, provides options to reduce specific lead hazards, writes lead risk assessment reports or who is an employer of individuals performing lead management activities and who may perform the duties of a lead (Pb) inspector.

(55) "Lead (Pb) supervisor" means an individual who supervises lead (Pb) workers, writes occupant protection plans or abatement reports, is authorized by the lead company to require changes in performance practices or to halt the project, or is an employer of individuals performing lead hazard reduction activities and who may perform on-site lead hazard reduction activities.

(56) "Lead (Pb) worker" means an individual who performs on-site lead abatement or HUD LBP grant-funded lead hazard reduction activities, including but not limited to preparation, cleanup, or any waste generation and preparation for transporting to disposal.

(57) "Living area" means any area of a residential dwelling or child-occupied facility used by one or more residents.

Note: Examples of living areas are living rooms, kitchen areas, dens, play rooms and children's bedrooms.

(58) "Multi-family dwelling" means a structure that contains more than one separate residential dwelling unit which is used or occupied or intended to be used or occupied, in whole or in part, as the home or residence of one or more persons.

(59) "Occupant protection plan" means a written plan developed prior to an abatement or HUD LBP grant-funded lead hazard reduction activity which describes the measures that will be taken during the abatement or lead hazard reduction to protect the building occupants from exposure to any lead-based paint hazards.

(60) "Paint in poor condition" means more than 10 square feet of deteriorated paint on exterior components with large surface areas, more than 2 square feet of deteriorated paint on interior components with large surface areas or that more than 10 percent of the total surface area is deteriorated on interior or exterior components with small surface areas.

Note: Examples of large surface areas are walls, ceilings, floors and doors. Examples of small surface areas are window sills, baseboards, soffits and trim.

(61) "Pb", means lead, the metallic element known by the symbol "Pb" in the periodic table of chemical elements.

(62) "Permanently covered soil" means soil which has been separated from human contact by the placement of a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch and other landscaping materials are not considered permanent covering.

(63) "Person" means any individual, corporation, partnership or association, any body politic, any Indian tribe or any state or political subdivision of a state, any interstate body or any department, agency or other instrumentality of the federal government.

(64) "Principal instructor" means an individual who has the primary responsibility for organizing and teaching a training course.

(65) "Real property" means the property on which a building stands and all contiguous property under the same ownership.

(66) "Recognized laboratory" means an environmental laboratory recognized by the department as being capable of performing an analysis for lead compounds in paint, soil and dust based on its accreditation by the national lead laboratory accreditation program (NLLAP) or an equivalent accreditation approved by the department.

Note: To obtain a list of recognized laboratories, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. The National Lead Information Center (NLIC) Clearinghouse updates the NLLAP list on a monthly basis. Updated copies may be obtained by calling NLIC at 1-800-424-5323.

(67) "Regional lead (Pb) training center" means an institution sponsored by the EPA to develop or conduct lead (Pb) training courses.

(68) "Target housing" means any dwelling constructed prior to 1978, except a dwelling for the elderly or persons with disabilities or any zero-bedroom dwelling unless a child under 6 years of age occupies or is expected to occupy the dwelling.

Note: Zero-bedroom dwellings include efficiencies, studio apartments, dormitory housing, military barracks and rentals of individual rooms in residential dwellings.

(69) "Training certificate" means a document meeting the requirements of s. HFS 163.20(9) which is issued by a training manager to an individual as evidence the individual has successfully completed the course specified in the document.

(70) "Training hour" means at least 50 minutes of actual instruction, which may include time devoted to learning activities, including lecture, small group activities, demonstrations, evaluations and hands-on activities.

(71) "Training manager" means an owner of a training course or an employee of a training provider who is authorized to act on behalf of the owner.

(72) "Training provider" means any person, including any individual, partnership, corporation, institution, organization or state or local government agency, who provides or offers to provide a training course accredited under this chapter.

(73) "Visual inspection" means:

(a) For clearance, visual examination following an activity that disturbs lead to determine whether or not the cleanup has been successfully completed, as indicated by the absence of visible residue, dust and debris.

(b) For risk assessment, visual examination to determine the existence of lead-based paint hazards or other potential sources of lead hazards.

(74) "Work day" means any day except Saturday, Sunday and holidays designated in s. 230.35 (4) (a), Stats.

(75) "XRF" means a portable instrument, analyzer or device used to determine lead concentration in milligrams per square centimeter using the principle of x-ray fluorescence.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

Subchapter II — Certification of Persons to Perform Lead Abatement, Other Lead Hazard Reduction Activities or Lead Management Activities

HFS 163.10 Certification of an individual.

(1) **REQUIREMENT.** Only an individual certified by the department under this chapter and employed by, under contract with or an owner of a certified lead (Pb) company may do any of the following:

(a) Perform, supervise or offer to perform or supervise an abatement, lead inspection, lead hazard screen, risk assessment, clearance or project design involving one of the following:

1. A child-occupied facility or the real property on which the child-occupied facility stands.

2. Target housing or the real property on which the target housing stands when the target housing or real property is not owned by the individual performing the work.

3. Target housing or the real property on which the target housing stands when the target housing or real property is rented or occupied by an individual other than the target housing's owner or the owner's immediate family.

4. Target housing or the real property on which the target housing stands when a child residing in the target housing has been identified as having a confirmed concentration of 20 or more micrograms of lead per deciliter ($\mu\text{g}/\text{dl}$) of whole blood for a single venous test or a concentration of 15-19 $\mu\text{g}/\text{dl}$ in 2 consecutive tests taken 3 to 4 months apart.

(b) Perform interim controls when funded by a HUD lead-based paint grant.

(c) Perform a lead hazard reduction when certification is required under an order issued by a court, the department, another state agency or a local agency.

Note: Certification requirements under this chapter do not preclude a person from requiring certification under this chapter in a contract for services. For the requirement that a lead (Pb) company be certified to perform, supervise or offer to perform or supervise a lead-based paint activity, see s. HFS 163.12.

(2) **DISCIPLINES.** Certification of individuals shall be specific to one of the following disciplines:

(a) *Lead (Pb) inspector.* A certified lead (Pb) inspector may conduct lead inspections, write inspection reports and conduct clearance following a lead hazard reduction activity.

(b) *Lead (Pb) project designer.* A certified lead (Pb) project designer may design lead hazard reduction projects, develop occupant protection plans and write lead hazard reduction reports.

(c) *Lead (Pb) risk assessor.* A certified lead (Pb) risk assessor may perform the duties of a lead (Pb) inspector, conduct lead hazard screens and risk assessments, write risk assessment reports and provide options to reduce specific lead hazards.

(d) *Lead (Pb) supervisor.* A certified lead (Pb) supervisor may supervise or perform on-site lead hazard reduction activities, develop occupant protection plans and write lead hazard reduction reports.

(e) *Lead (Pb) worker.* A certified lead (Pb) worker may perform on-site lead hazard reduction activities, but only under the direct supervision of a certified lead (Pb) supervisor.

(f) *Lead (Pb) worker-homeowner.* A certified lead (Pb) worker-homeowner may perform lead hazard reduction activities in the homeowner's own nonrental dwelling or real property. When a homeowner is required to be certified to perform work under sub. (1) (a) 3. or 4., (b) or (c), the worker-homeowner shall be under the general supervision of a certified lead (Pb) supervisor.

(3) CONDITIONS FOR INITIAL CERTIFICATION. (a) *Summary.* An individual applying for initial certification in any discipline identified under sub. (2) shall be 18 years of age or older, shall meet applicable education and experience qualifications under par. (b), shall successfully complete certification training requirements under s. HFS 163.11 and, to be certified as a lead (Pb) inspector, risk assessor or supervisor, shall pass a certification examination under par. (c). To apply for certification, the applicant shall submit to the department an application under sub. (4) and include the applicable fee under sub. (5).

Note: Use this subsection and subs. (4) to (7) to apply for certification when applying for certification in a discipline for the first time or after certification in the discipline has lapsed for 12 months or more. Use sub. (8) to apply for recertification when applying before certification expires or within 12 months after certification expires.

(b) *Education and experience.* 1. 'Requirement.' An applicant for initial certification as a lead (Pb) project designer, risk assessor or supervisor shall meet the applicable education and experience qualifications in this paragraph in addition to the certification training requirements under s. HFS 163.11.

2. 'Project designer.' An applicant for lead (Pb) project designer certification shall meet or exceed one of the following:

a. Have a bachelor's degree in engineering, architecture or a related profession and have one year of experience in building construction and design or a related field.

b. Have 4 years of experience in building construction and design or a related field.

3. 'Risk assessor.' An applicant for lead (Pb) risk assessor certification shall meet or exceed one of the following:

a. Have a bachelor's degree and one year of experience in a related field, such as lead, asbestos, environmental remediation work or construction.

b. Have an associate's degree and 2 years of experience in a related field such as lead, asbestos, environmental remediation work or construction.

c. Have a high school diploma or equivalent and 3 years of experience in a related field, such as lead, asbestos, environmental remediation work or construction.

d. Hold professional certification as an industrial hygienist, professional engineer or registered architect or in a related professional engineering, health or environmental field, such as safety professional or environmental scientist.

4. 'Supervisor.' An applicant for lead (Pb) supervisor certification shall meet or exceed one of the following:

a. Have one year of experience as a certified lead (Pb) worker or supervisor.

b. Have 2 years of experience in a related field, such as lead, asbestos or environmental remediation work or in the building trades, such as construction.

(c) *Certification examination for lead (Pb) inspectors, risk assessors and supervisors.* 1. 'Requirement.' To be certified, an applicant for initial certification as a lead (Pb) inspector, risk assessor or supervisor shall do one of the following:

a. Pass a certification examination administered by the department or by a person authorized by the department to administer the certification examination under the department's direction or with the department's approval within the 12-month period prior to applying for initial certification. A training provider may not administer a certification examination, except that the department may be a training provider and also administer a certification examination.

b. Successfully demonstrate knowledge of subchs. I, II and IV of this chapter if the individual previously passed a certification examination administered by EPA, another EPA-authorized state or an EPA-authorized tribe and currently possesses an applicable certification card or license issued by EPA, another EPA-authorized state or an EPA-authorized tribe. To demonstrate knowledge of subchs. I, II and IV of this chapter, the applicant shall obtain a regulation worksheet and regulations from the department,

shall accurately complete the worksheet with information from the regulations and shall submit the worksheet to the department with the certification application.

Note: To obtain a copy of the worksheet and regulations, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed worksheet, application and certification fee to the same office.

2. 'Timing of certification examination.' a. Applicant with interim certification. An applicant for initial certification to whom the department granted interim certification under sub. (6) (b) shall take the next available certification examination offered at a reasonably accessible location, as determined by the department. The applicant with interim certification may take the certification examination a maximum of 3 times within 6 months after completing an approved training course for the discipline under s. HFS 163.11. If an applicant does not pass the certification examination and become certified by the department within this 6-month period, the department may revoke the interim card. The individual shall retake the initial training course before reapplying for certification.

b. Applicant without interim certification. An applicant for initial certification who chooses not to seek interim certification or who is not eligible for interim certification, but who meets the certification examination prerequisites under subd. 3., shall take a certification examination offered at a reasonably accessible location, as determined by the department. The applicant without interim certification may take the certification examination a maximum of 3 times within 6 months after the date the department receives the individual's first registration to take a certification examination. If an applicant does not pass the certification examination and become certified by the department within this 6-month period, the individual shall retake the initial training course before reapplying for certification.

3. 'Certification examination prerequisites.' To be registered to take a certification examination, an applicant for initial certification shall do both of the following:

a. Meet the age, education and experience, and training conditions for initial certification under this section.

b. Register for the certification examination by submitting to the department a completed application for certification under sub. (4) and the appropriate exam registration and certification fees under sub. (5).

Note: To obtain a copy of the certification application, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fees to the same office.

4. 'Rescheduling a certification examination.' If unable to take the certification examination at the time or date scheduled by the department, the applicant may reschedule the certification examination for another time or date without payment of an additional fee if the applicant requests the change not less than one work day prior to the scheduled certification examination. The certification examination fee is not refundable.

(4) APPLICATION FOR INITIAL CERTIFICATION. An individual applying for initial certification shall submit all of the following to the department:

(a) *Application form.* A fully and accurately completed application on a form obtained from the department. The applicant shall include the applicant's social security number on the application and shall personally sign the application affidavit verifying the accuracy of the information.

(b) *Photograph.* A recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2".

(c) *Verification of birth date.* A document that verifies the applicant's birth date, such as a birth certificate.

(d) *Documentation of training.* 1. Copies of all previous training certificates for required courses under s. HFS 163.11. The copy of the most current training certificate shall be notarized as a true copy of the original certificate.

2. Except for an applicant for worker-homeowner certification, documentation of worker safety training under s. HFS 163.11 (5) on a form obtained from or approved by the department.

(e) *Documentation of education and experience.* For certification as a lead (Pb) project designer, risk assessor or supervisor, an affidavit of education and experience required under sub. (3) (b) on a form obtained from the department. The applicant shall also be prepared to submit one or more of the following forms of documentation if requested by the department:

1. 'Education.' For documentation of education, an official transcript or diploma.

2. 'Experience.' For documentation of experience, information describing the relevant experience, which shall include the month and year the experience began and the month and year the experience ended and which may include one or more of the following:

- a. A resume describing the relevant experience.
- b. A letter describing the tasks performed by the individual and signed by the employer where the experience was obtained.
- c. Letters of reference from individuals with competent knowledge of the applicant's experience.
- d. Copies of inspection reports prepared by the applicant.
- e. Copies of certifications issued by other jurisdictions which allowed the individual to perform related work.

3. 'Other professional certification.' For documentation of other professional certification, a copy of the certification, notarized as a true copy of the original document.

(f) *Other documentation.* For an applicant who claims to meet the certification examination requirement under sub. (3) (c) 1. b., all of the following:

1. A copy of current certification issued by EPA or by an EPA-authorized state or tribe, notarized as a true copy of the original document.
2. A copy of documentation that the individual passed a certification examination for the applicable discipline, notarized as a true copy of the original document.
3. A completed regulation worksheet.

(g) *Fees.* 1. The appropriate certification fee or a written request for a government certification fee exemption under sub. (5) (a). To request an exemption, the applicant shall complete the exemption section of the application and submit a letter from the employing agency describing the job duties that qualify the employee for a certification fee exemption. The fee for initial certification is not refundable.

2. For lead (Pb) inspector, risk assessor or supervisor initial certification, a nonrefundable certification examination registration fee under sub. (5) (c).

Note: For copies of the application form, worker-safety training form or affidavit of education and experience, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(5) **FEES.** (a) *Certification fee.* An applicant for certification or recertification under this subchapter, except an applicant employed by state government or a local government who applies for certification required to perform duties within the scope of employment, shall pay a fee as follows:

1. For certification as a lead (Pb) inspector, a fee of \$150 for up to 12 months, a fee of \$300 for 12 months up to 24 months and a fee of \$450 for 24 months up to 36 months.

2. For certification as a lead (Pb) risk assessor, a fee of \$175 for up to 12 months, a fee of \$350 for 12 months up to 24 months and a fee of \$525 for 24 months up to 36 months.

3. For certification as a lead (Pb) project designer, a fee of \$175 for up to 12 months, a fee of \$350 for 12 months up to 24 months and a fee of \$525 for 24 months up to 36 months.

4. For certification as a lead (Pb) supervisor, a fee of \$125 for up to 12 months, a fee of \$250 for 12 months up to 24 months and a fee of \$375 for 24 months up to 36 months.

5. For certification as a lead (Pb) worker, a fee of \$50 for up to 12 months, a fee of \$100 for 12 months up to 24 months and a fee of \$150 for 24 months up to 36 months.

6. For certification as a lead (Pb) worker-homeowner, a fee of \$25 for up to 36 months.

(b) *Replacement card fee.* If a certification card is lost, stolen or damaged, the individual who was issued the card may request the department to issue a replacement card and shall include with any request a fee of \$25 and a recent identifying photograph in a standard passport size of 2" by 2".

(c) *Certification examination registration fee.* An applicant registering to take a certification examination under sub. (3) (c) or (8) (b) 4. shall pay a nonrefundable fee of \$50.

(6) **ACTION BY THE DEPARTMENT.** (a) *Time limit.* Within 10 work days after receipt of a fully and accurately completed certification application, as specified in sub. (4), the department shall grant interim or initial certification or shall deny certification.

(b) *Grant interim certification.* If an individual applies for lead (Pb) inspector, risk assessor or supervisor certification, meets all of the certification examination prerequisites under sub. (3) (c) 3. and is registered for, but has not passed, the certification examination for the discipline, the department may grant interim certification. When interim certification is granted, the department shall issue or arrange for the issuance of an interim certification card for the appropriate specific discipline under sub. (2). An individual may be granted interim certification only once per discipline per lifetime.

Note: When interim certification is granted, the department will also register the applicant for a certification examination and send the applicant information regarding the scheduled certification examination.

(c) *Grant initial certification.* 1. 'Upon application.' If an individual applies for certification and meets all of the conditions for initial certification under sub. (3), the department may grant initial certification. When certification is granted, the department shall issue or arrange for the issuance of a certification card for the appropriate specific discipline under sub. (2).

2. 'Upon passing certification examination.' When an individual with interim certification as an inspector, risk assessor or supervisor passes the certification examination for the discipline, the department shall change the individual's certification from interim to initial and shall issue a revised certification card for the balance of the certification term for which the individual applied and was qualified.

(d) *Deny certification.* If certification is denied, the department shall give the applicant a written explanation for the denial and shall notify the applicant of the right to appeal that decision under s. HFS 163.33.

(7) **LENGTH OF INTERIM AND INITIAL CERTIFICATION.** (a) *Interim certification.* Interim certification shall remain valid for a maximum of 6 months after the completion date of the most recent training course for the discipline under s. HFS 163.11.

(b) *Initial certification.* Initial certification shall remain valid for a maximum of 3 years after the completion date of the most recent training course for the discipline under s. HFS 163.11, depending on the fee paid and compliance with training and other certification requirements under this subchapter. The department may not grant an initial certification expiration date that extends beyond the date by which the applicant is required to complete refresher training for the discipline.

(8) **RECERTIFICATION OF AN INDIVIDUAL.** (a) *Requirement.* No individual certified under this subchapter may perform a lead-based paint activity for which certification is required after the expiration date on that individual's certification card until the individual is recertified by the department and possesses a new, unexpired certification card.

Note: Use the procedure in this subsection to apply for recertification before certification expires or within 12 months after certification expires. If it is 12 months or more since a certification expired, the person wanting to renew certification must make reapplication for initial certification under subs. (3) to (7).

(b) *Conditions.* To be recertified, the individual shall:

1. Be in compliance with all requirements of subch. I and this subchapter.

2. Be current with the certification training requirements under s. HFS 163.11.

3. Submit an application for recertification to the department under par. (c) and include the appropriate certification fee under sub. (5). The department shall refund the certification fee if recertification is denied and the payer does not owe the department other fees.

4. Pass a certification examination under sub. (3) (c) when one of the following applies:

a. The department requires the individual to pass the certification examination because the department has reason to believe a training course or training certificate does not meet all requirements of this chapter.

b. The applicant for recertification as a lead (Pb) inspector, risk assessor or supervisor has not previously passed a certification examination under sub. (3) (c) 1.

Note: To request a certification exam registration form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed registration form and fee to the same office.

(c) *Application.* An applicant for recertification shall submit all of the following to the department:

1. 'Application form.' A fully and accurately completed application on a form obtained from the department. The applicant shall include on the form his or her social security number if it is not already shown on the form. The applicant shall personally sign the application affidavit verifying the accuracy of the information.

2. 'Photograph.' A recent, clearly identifiable photograph of the applicant's face in a standard passport size of 2" x 2".

3. 'Training certificates.' A copy of any training certificate which was not previously submitted for training required under s. HFS 163.11. The copy of the training certificate shall be notarized as a true copy of the original certificate.

4. 'Fee.' The appropriate certification fee under sub. (5) (a) or, if requesting a government fee exemption, a letter from the employing agency describing the job duties that qualify the employee for a fee exemption.

5. 'Certification examination registration.' If required under par. (b) 4. to take a certification examination, the applicant for recertification shall submit a certification examination registration form and a registration fee of \$50.

Note: For a copy of the application or certification examination registration form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(d) *Action by the department.* 1. 'Time limit.' Within 10 work days after receipt of a fully and accurately completed application for recertification, the department shall grant or deny recertification.

2. 'Grant recertification.' If an individual applies for recertification and meets the conditions for recertification under par. (b), the department may grant recertification. When recertification is granted, the department shall issue or arrange for the issuance of a certification card for the appropriate specific discipline under sub. (2).

3. 'Deny recertification.' If recertification is denied, the department shall give the applicant a written explanation for the denial and shall notify the applicant of the right to appeal that decision under s. HFS 163.33.

(e) *Length of recertification.* Recertification shall extend the individual's certification expiration date for a maximum of 3 years

depending on the fee paid and compliance with training and other certification requirements under this subchapter.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.11 Certification training requirements. To be certified under subch. I and this subchapter as a lead (Pb) inspector, project designer, risk assessor, supervisor, worker or worker-homeowner, an individual shall meet all of the following training requirements:

(1) **APPROVED TRAINING COURSES.** The individual shall complete one of the following department-approved training courses:

(a) A training course accredited by the department under subch. III.

(b) A training course offered in another state that is accredited by that state if the state is EPA-authorized, by an EPA-authorized tribal program or by EPA, and that is approved by the department as being as protective as the accreditation requirements under subch. III.

(c) An EPA-sponsored training course from a regional lead (Pb) training center or an approved member of the center's consortium if the course was completed in another state prior to March 1, 1999.

(d) A training course offered in another state that is accredited by that state and is comparable to the accreditation requirements under subch. III if the course was completed prior to March 1, 1999.

(2) **INITIAL TRAINING.** (a) *Requirement for initial training.* The individual shall have successfully completed a department-approved initial training course and passed a course test in the discipline in which certification is sought and shall have successfully completed any prerequisite training course and course test as follows:

1. 'Inspector.' For certification as a lead (Pb) inspector, worker safety training under sub. (5) prior to an initial lead inspector course.

2. 'Risk assessor.' For certification as a lead (Pb) risk assessor, inspector training under subd. 1. prior to an initial lead risk assessor course.

3. 'Worker.' For certification as a lead (Pb) worker, worker safety training under sub. (5) prior to an initial lead worker course.

4. 'Supervisor.' For certification as a lead (Pb) supervisor, worker training under subd. 3. prior to an initial lead supervisor course.

5. 'Project designer.' For certification as a lead (Pb) project designer, supervisor training under subd. 4. prior to an initial lead project designer course.

(b) *Worker-homeowner.* For certification as a lead (Pb) worker-homeowner, an individual shall have successfully completed a department-approved initial lead worker-homeowner or a lead worker course and passed the course test.

(3) **REFRESHER TRAINING.** (a) *Requirement for refresher training.* As a condition for certification, an individual shall remain current with training by complying with one of the following:

1. Completing the applicable refresher training course under par. (b) no later than 3 years after completing the initial training course and each subsequent refresher training course within 3 years after completing the previous training course.

2. If the certification expiration date is not more than 3 months after the date refresher training is due under subd. 1., by completing refresher training prior to the certification expiration date but not later than 39 months after completing the previous training course.

Note: To be certified or licensed to perform lead-based paint activities in another state, refresher training may be required annually or every other year instead of every 3 years.

3. If an approved principal instructor, by attending at least 2 department-sponsored training provider meetings every 3 years and by doing one of the following:

- a. Complying with subd. 1. or 2.
- b. Teaching the applicable refresher course under par. (b) at least once every 3 years and passing the course test.

Note: An instructor who may want to be certified by EPA or another state may want to complete annual refresher courses taught by other instructors to ensure eligibility.

(b) *Required refresher courses.* The individual shall successfully complete department-approved refresher training courses, as follows:

- 1. 'Inspector.' For certification as a lead (Pb) inspector, a lead inspector refresher course.
- 2. 'Risk assessor.' For certification as a lead (Pb) risk assessor, a lead inspector refresher course and a lead risk assessor refresher course.
- 3. 'Project designer.' For certification as a lead (Pb) project designer, a lead project designer refresher course.
- 4. 'Supervisor.' For certification as a lead (Pb) supervisor, a lead supervisor refresher course.
- 5. 'Worker.' For certification as a lead (Pb) worker, a lead worker refresher course.
- 6. 'Worker-homeowner.' For certification as a lead (Pb) worker-homeowner, a lead worker-homeowner refresher course or a lead worker refresher course.

(c) *Retaking initial training.* To become certified or recertified after an individual's refresher training under par. (a) is past due, the individual shall first retake and complete an initial training course, pass the course test and receive a training certificate.

(4) **TRAINING CERTIFICATES.** The individual shall retain an original training certificate for each required training course completed.

(5) **WORKER-SAFETY TRAINING.** (a) *Requirement for worker-safety training.* As a prerequisite for lead training under sub. (2) (a), an individual shall have successfully completed worker-safety training.

(b) *Content of worker-safety training.* Worker-safety training shall cover information required for persons working with lead in construction under federal occupational and safety health administration (OSHA) standards and shall include all of the following topics as appropriate for the discipline:

- 1. Personal protection equipment, including equipment uses and limitations, respiratory protection, respiratory equipment selection, air-purifying respirators, care and cleaning of respirators, filter use, protective clothing and equipment, hygiene practices and hands-on practice in use of personal protective equipment.
- 2. Worker safety, including material safety data sheets (MSDS), respiratory protection program, basic lead (Pb) engineering controls, trips and falls, heat stress, scaffold and ladder hazards, electrical hazards and fire hazards.

Note: To request a form to document completion of worker-safety training or to request additional information on the OSHA lead training standards under 29 CFR 1926.62, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.12 Certification of a lead (Pb) company.

(1) **REQUIREMENT.** Only a company, partnership, corporation, sole proprietorship, association, governmental agency or other entity certified by the department as a lead (Pb) company under this chapter may perform, supervise, advertise, claim to provide or offer to perform or supervise a lead-based paint activity on and after August 30, 1999.

(2) **CONDITIONS FOR CERTIFICATION.** To be certified as a lead (Pb) company, an applicant shall do all of the following:

- (a) *Apply.* Submit a completed application under sub. (3).
- (b) *Use certified individuals.* Agree to employ or contract with only appropriately certified individuals to perform or supervise

lead-based paint activities when certification is required under this chapter.

(c) *Follow work practice standards.* Agree that all lead (Pb) company employees or subcontractors will follow the work practice standards under s. HFS 163.14 when performing activities covered by the standards.

(d) *Have certified lead (Pb) supervisor.* Have an owner, officer or employee of the lead (Pb) company who is authorized to act on the lead (Pb) company's behalf certified as a lead (Pb) supervisor before offering lead hazard reduction services.

Note: For a governmental agency, each employee certified as a lead (Pb) supervisor is deemed to meet this requirement.

(e) *Have certified lead (Pb) risk assessor.* Have an owner, officer or employee of the lead (Pb) company who is authorized to act on the lead (Pb) company's behalf certified as a lead (Pb) risk assessor before offering lead management services.

Note: For a governmental agency, each employee certified as a lead (Pb) risk assessor is deemed to meet this requirement.

(3) **APPLICATION FOR CERTIFICATION.** A person seeking certification shall submit an application under par. (a) or (b) to the department.

(a) *Application for a nongovernmental lead (Pb) company.* 1. 'Application form.' The lead (Pb) company that is not a governmental agency shall submit a fully and accurately completed application on a form obtained from the department. The application shall include all of the following information:

- a. The lead (Pb) company's name, mailing address, physical address and telephone number and the physical address of records required under s. HFS 163.14(9) if different from the physical address.

- b. The federal employer identification number for the lead (Pb) company or a statement why the lead (Pb) company does not have one.

- c. Names and social security numbers of the lead (Pb) company's owners.

- d. Names of corporate officers of the lead (Pb) company, if the lead (Pb) company is incorporated.

- e. For a lead (Pb) company offering lead hazard reduction or lead management services, the name of any individual who is authorized to meet the requirement under sub. (2) (d) or (e). If the individual is not currently certified, an application for certification of the individual shall be submitted with the lead (Pb) company application.

- f. A statement signed by an owner or officer of the lead (Pb) company attesting that the lead (Pb) company will employ or contract with only appropriately certified persons to conduct or supervise lead-based paint activities when certification is required under this chapter.

- g. A statement signed by an owner or officer of the lead (Pb) company attesting that the lead (Pb) company, its employees and subcontractors will follow the work practice standards in s. HFS 163.14 when conducting lead-based paint activities covered by the standard.

- h. A list of certified staff employed by or under contract with the lead (Pb) company at the time of application.

- 2. 'Fee.' a. A nonrefundable initial certification fee of \$50.

- b. A lead (Pb) company that submits a check that is not honored by the bank on which it is written shall pay a \$25 service charge in addition to any required fee.

Note: For a copy of the application form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(b) *Application for a governmental agency.* A lead (Pb) company that is a governmental agency shall submit a fully and accurately completed application on a form obtained from the department. The application shall include all of the following information:

1. Name, mailing address, physical address and telephone number for the agency and physical address of records required under s. HFS 163.14 (9) if different from the agency's physical address.

2. A statement signed by an authorized representative of the agency attesting that the agency will employ or contract with only appropriately certified persons to conduct or supervise lead-based paint activities when certification is required under this chapter.

3. A statement signed by an authorized representative of the agency attesting that the agency, its employees and subcontractors will follow the work practice standards in s. HFS 163.14 when conducting lead-based paint activities covered by the standard.

Note: For a copy of the application form, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application to the same office.

(4) **ACTION BY THE DEPARTMENT.** (a) *Time limit.* Within 10 work days after receipt of a fully and accurately completed certification application, the department shall grant or deny a lead (Pb) company's request for certification.

(b) *Grant certification.* If the department grants lead (Pb) company certification, the department shall issue a certificate of approval.

(c) *Deny certification.* If the department denies lead (Pb) company certification, the department shall give the lead (Pb) company a written explanation for the denial and shall notify the lead (Pb) company of the right to appeal that decision under s. HFS 163.33.

(5) **LENGTH OF LEAD (Pb) COMPANY CERTIFICATION.** A lead (Pb) company's lead certification shall be valid for up to 12 months and shall expire annually at 12:01 a.m. on November 1.

(6) **RENEWAL OF CERTIFICATION.** (a) *Requirement.* To continue to perform, supervise, advertise, claim to provide or offer to perform or supervise a lead-based paint activity after certification expires on November 1, a lead (Pb) company shall submit the following to the department before November 1:

1. A completed renewal of certification application indicating changes to lead (Pb) company information since the previous application.

2. A nonrefundable fee of \$50, except that a state or local government agency is exempt from paying the fee.

Note: Submit the application and fee to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043.

(b) *Action by the department.* 1. 'Time limit.' Within 10 work days after receipt of a fully and accurately completed application, the department shall grant or deny a lead (Pb) company's request for renewal of certification.

2. 'Grant renewal of certification.' If the department grants a lead (Pb) company renewal of certification, the department shall issue a certificate of approval.

3. 'Deny renewal of certification.' If the department denies a lead (Pb) company renewal of certification, the department shall give the lead (Pb) company a written explanation for the denial and shall notify the lead (Pb) company of the right to appeal that decision under s. HFS 163.33.

(c) *Length of lead (Pb) company renewal of certification.* When renewal of certification is granted, a lead (Pb) company's certification shall be extended a maximum of 12 months and shall expire annually at 12:01 a.m. on the November 1 following renewal of certification.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.13 Responsibilities of certified persons.

(1) **MAY NOT REFUSE ENTRY.** No person at a site where a lead (Pb) company conducts business or at the site of a lead-based paint activity may refuse entry to any representative of the department acting under the authority of s. HFS 163.30 (3).

(2) **REQUIREMENT FOR VALID CARD ON SITE.** Only a Wisconsin lead (Pb) certification card is valid in this state for performing a lead-based paint activity. Each individual performing or supervising a lead-based paint activity for which certification is required shall have a valid unexpired certification card at the job site whenever performing or supervising a lead-based paint activity. Only the most recent certification card is valid.

(3) **REQUIREMENT TO PASS CERTIFICATION EXAMINATION.** To maintain certification, an individual certified by the department as a lead (Pb) inspector, risk assessor or supervisor prior to August 31, 1998, shall pass the certification examination under s. HFS 163.10 (3) (c) not later than August 31, 1999.

(4) **RESPONSIBILITY FOR TRAINING AND CERTIFICATION DOCUMENTS.** (a) *Individual.* The individual to whom a training certificate is issued by a training manager and a certification card is issued by the department is the owner of that training certificate and certification card, and is responsible for the following:

1. 'Responsibility for training certificate.' a. The individual shall retain an original training certificate for the duration of the individual's certification for each required training course completed, shall provide the original training certificate for each completed course upon request by the department.

b. The individual shall not allow another person to photocopy the training certificate unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy and shall not allow another person to use the training certificate.

2. 'Responsibility for certification card.' a. The individual shall retain the certification card until the card expires, shall have it physically present when performing or supervising a lead-based paint activity requiring certification under this chapter and shall make the certification card available for inspection upon request by the department or the public.

b. The individual shall not allow another person to photocopy the certification card unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy and shall not allow another person to use the certification card.

c. When requested by the department, the individual shall return a suspended, revoked or otherwise invalid certification card to the department within 10 work days of the department's request.

(b) *Lead (Pb) company.* 1. 'Prohibited actions.' The employer or lead (Pb) company may not confiscate an individual's original training certificate or certification card. The employer or lead (Pb) company may not photocopy an individual's training certificate or certification card unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy.

2. 'Responsibility for certificate of approval.' a. Each lead (Pb) company performing, supervising or offering to perform or supervise a lead-based paint activity for which certification is required shall retain the certificate of approval for the duration of certification and shall make it available for inspection upon request by the department or the public.

b. A lead (Pb) company shall not allow another person to photocopy the certificate of approval unless the photocopy is clearly labeled "copy" across the face of it in order to discourage fraudulent or misleading use of the photocopy and shall not allow another person to use the certificate of approval.

c. When requested by the department, the lead (Pb) company shall return a suspended, revoked or otherwise invalid certificate of approval to the department within 10 work days of the department's request.

(5) **RESPONSIBILITY FOR VERIFICATION OF CERTIFICATION.** The lead (Pb) company employing or contracting with persons conducting a lead-based paint activity shall verify the certification

status of individuals performing or supervising those activities before the start of the activity and may not make use of non-certified lead (Pb) inspectors, project designers, risk assessors, workers or supervisors to perform a lead-based paint activity for which certification is required.

(6) SUMMARY OF LEAD IDENTIFICATION ACTIVITIES. (a) *Requirement for summary.* A person conducting a lead inspection, lead hazard screen or lead risk assessment for which a certified lead (Pb) inspector or risk assessor is required, shall submit to the department a summary of the lead identification activity conducted on a form obtained from or approved by the department.

Note: A summary report does not have to be submitted to the Department if a person has not conducted a lead inspection, lead hazard screen or risk assessment in a child occupied facility or target housing. A health department is not required to report an environmental investigation when conducted in response to a notification of a child with lead poisoning.

(b) *Summary period.* Each summary shall cover a three-month period as follows:

1. January through March.
2. April through June.
3. July through September.
4. October through December.

(c) *Submittal date.* A completed summary form shall be submitted to the department on or before the last day of the month following the end of the summary period.

Note: Reports are due the last day of January, April, July and October for the previous quarter.

(d) *Content of summary.* A completed summary form shall include the name, address, telephone number and certification identification number of the lead (Pb) company reporting and all of the following information for each lead identification activity conducted:

1. Date the lead identification activity was conducted.
2. Street address and city or fire address of the dwelling or child-occupied facility where the lead identification was conducted or a unique identification number assigned by the lead company.
3. Name and lead certification identification number of the individual or individuals conducting the lead identification activity.
4. Type of lead identification activity conducted.
5. The result of the lead identification activity.

Note: To request a summary form, to request approval of an alternative form or to submit a summary, fax to (608) 266-9711 or mail to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Ave., Madison, WI 53703-3043.

(7) COMPLIANCE WITH WORK PRACTICE STANDARDS. Upon receiving certification, individuals and lead (Pb) companies shall conduct activities in a manner that does not increase the hazards from lead-based paint to building occupants and, beginning March 1, 1999, shall comply with the work practice standards under s. HFS 163.14 when performing a lead-based paint activity or an activity described as an inspection, lead-hazard screen, risk assessment, abatement or clearance.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.14 Work practice standards. (1) EFFECTIVE DATE AND APPLICABILITY. Beginning March 1, 1999, all lead-based paint activities, including abatement, lead hazard reduction funded by a HUD lead-based paint grant, clearance, inspection, lead hazard screen, risk assessment, project design and development of an occupant protection plan, shall be conducted according to the procedures and work practice standards contained in this section.

(2) INSPECTION. Only a certified lead (Pb) inspector or risk assessor may perform an inspection. In performing an inspection, the certified lead (Pb) inspector or risk assessor shall comply with all of the following:

(a) Select the following locations by using documented methodologies and test for the presence of lead-based paint:

1. In a residential dwelling or child-occupied facility, test each interior component with a distinct paint history and each exterior component with a distinct paint history, except those components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

2. In a multi-family dwelling or child-occupied facility, test each component with a distinct paint history in every common area, except those components that the inspector or risk assessor determines have been replaced after 1978 or do not contain lead-based paint.

3. When a person requests a partial inspection for purposes of identifying lead-based paint in an area to be renovated or remodeled, select locations that fall within that area in accordance with subd. 1 or 2 above. The inspection shall be based on a written contract that specifies the limits of the partial inspection.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(b) Conduct paint analysis by using one or both of the following methods:

1. Analyze paint to determine the presence of lead by using documented methodologies which incorporate adequate quality control procedures.

2. Have all collected paint chip samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(c) Following an inspection, prepare a written inspection report for submission to the person who contracted for the inspection. The report shall include all of the following information:

1. Date of the inspection.
2. Address of building inspected.
3. Date of construction.
4. Apartment numbers of units inspected, if applicable.
5. Name, address and telephone number of the owner or owners of each residential dwelling or child-occupied facility.
6. Name, address, telephone number, certification number and signature of each certified inspector and risk assessor conducting the inspection.
7. Name, address, telephone number and certification number of the certified lead (Pb) company employing the certified inspector and risk assessor conducting the inspection.
8. Each testing method and device and each sampling procedure used for paint analysis, including quality control data and, if used, the serial number of any XRF.
9. Specific locations of each painted component tested for the presence of lead-based paint.
10. The results of the inspection expressed in terms appropriate to the sampling method used.

(3) LEAD HAZARD SCREEN. Only a certified lead (Pb) risk assessor may perform a lead hazard screen. In performing a lead hazard screen, the certified lead (Pb) risk assessor shall comply with all of the following:

(a) Collect background information on the physical characteristics of the residential dwelling or child-occupied facility and occupant use patterns that may cause lead-based paint exposure to one or more children under 6 years of age.

(b) Conduct a visual inspection of the residential dwelling or child-occupied facility to accomplish both of the following:

1. Determine if any deteriorated paint is present.
2. Locate at least 2 dust sampling locations.

(c) If deteriorated paint is present, use documented methodologies to test each surface with deteriorated paint which the risk assessor determines is in poor condition and has a distinct paint history.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(d) In residential dwellings, use the standards under sub. (8) to collect 2 composite dust samples, one from the floors and the other from the windows, in rooms, hallways or stairwells where one or more children under 6 years of age are most likely to come into contact with dust.

(e) In multi-family dwellings and child-occupied facilities, use the standards under sub. (8) to collect composite dust samples from common areas where one or more children under 6 years of age are most likely to come into contact with dust in addition to the samples collected under par. (d).

(f) Collect all dust samples by using documented methodologies that incorporate adequate quality control procedures.

(g) Have all collected dust samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(h) Conduct paint analysis using one or both of the following methods:

1. Conduct the analysis of paint to determine the presence of lead by using documented methodologies which incorporate adequate quality control procedures.

2. Have all collected paint chip samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(i) Following a lead hazard screen, prepare a written lead hazard screen report for submission to the person who contracted for the lead hazard screen. The report shall include all of the following information:

1. Date of the lead hazard screen.
2. Address of each building screened.
3. Date of construction of buildings.
4. Apartment number of units screened, if applicable.
5. Name, address and telephone number of each owner of each building.
6. Name, address, telephone number, certification number and signature of the certified risk assessor conducting the lead hazard screen.
7. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the lead hazard screen.
8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Background information collected under par. (a).
10. Results of the visual inspection.
11. Description of testing method and sampling procedure used for paint analysis.
12. Specific locations of each painted component tested for the presence of lead.
13. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF.
14. All results of laboratory analysis on collected paint, soil and dust samples.
15. Any other sampling results.
16. Recommendations, if warranted, for a follow-up risk assessment and, as appropriate, any further actions.

(4) RISK ASSESSMENT. Only a certified lead (Pb) risk assessor may perform a risk assessment. In performing a risk assessment, the certified lead (Pb) risk assessor shall comply with all of the following:

(a) Conduct a visual inspection for risk assessment of the residential dwelling or child-occupied facility to locate the existence of deteriorated paint, assess the extent and causes of the deterioration and identify other potential lead-based paint hazards.

(b) Collect background information on the physical characteristics of the residential dwelling or child-occupied facility and

occupant use patterns that may cause lead-based paint exposure to one or more children under 6 years of age.

(c) Select and test all of the following locations for the presence of lead by using documented methodologies:

1. Each surface with deteriorated paint that is determined to be in poor condition and to have a distinct paint history.

2. Any other surface that is determined to be a potential lead-based paint hazard and to have a distinct paint history.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(d) In residential dwellings, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples from the window and floor in each living area where a child under 6 years of age is likely to come into contact with dust.

(e) For multi-family dwellings and child-occupied facilities, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples from the window and floor in both of the following locations:

1. Common areas adjacent to the sampled residential dwelling or child-occupied facility.

2. Other common areas in the building where the risk assessor determines that one or more children under 6 years of age are likely to come into contact with dust.

(f) For child-occupied facilities, collect single-surface dust samples or use the standards under sub. (8) to collect composite dust samples in each room, hallway or stairwell used by one or more children under 6 years of age and in other common areas in the child-occupied facility where the risk assessor determines that one or more children under 6 years of age are likely to come into contact with dust.

(g) Collect soil samples for analysis of lead concentrations in both of the following locations:

1. Exterior play areas where bare soil is present.
2. Dripline and foundation areas where bare soil is present.

(h) Conduct any paint, dust or soil sampling or testing using documented methodologies that incorporate adequate quality control procedures.

(i) Have any collected paint chip, dust or soil samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(j) Following a risk assessment, prepare a written risk assessment report for submission to the person who contracted for the risk assessment. The report shall include all of the following information:

1. Date of the risk assessment.
2. Address of each building assessed.
3. Date of construction of buildings.
4. Apartment number of units assessed, if applicable.
5. Name, address and telephone number of each owner of each building.
6. Name, address, telephone number, certification number and signature of the certified risk assessor conducting the risk assessment.
7. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the risk assessment.
8. Name, address and telephone number of each recognized laboratory conducting analysis of collected samples.
9. Results of the visual inspection.
10. Description of testing method and sampling procedure used for paint analysis.
11. Specific locations of each painted component tested for the presence of lead.
12. All data collected from on-site testing, including quality control data and, if used, the serial number of any XRF.

13. All results of laboratory analysis on collected paint, soil and dust samples.

14. Any other sampling results.

15. Any background information collected under par. (b).

16. To the extent that they are used as part of the lead-based paint hazard determination, the results of any previous inspections or analyses for the presence of lead-based paint or other assessments of lead-based paint-related hazards.

17. A description of the location, type and severity of identified lead-based paint hazards and any other potential lead hazards.

18. A description of interim controls or abatement options for each identified lead-based paint hazard and a suggested prioritization for addressing each hazard. If the use of an encapsulant or enclosure is recommended, the report shall recommend a maintenance and monitoring schedule for the encapsulant or enclosure.

Note: The work practice standards under this subsection do not apply to an environmental investigation conducted in response to a child with lead poisoning. An environmental investigation has a different purpose and, therefore, a different scope and process than a risk assessment. Guidance for conducting an environmental investigation in response to a child with lead poisoning is available in the Wisconsin Childhood Lead Poisoning Prevention & Control Handbook which the department provides to local public health agencies.

(5) LEAD HAZARD REDUCTION ACTIVITIES. Only a certified lead (Pb) supervisor, worker or worker-homeowner may perform abatement or HUD LBP grant-funded interim controls. A certified project designer may participate in abatement by designing the abatement project, writing the occupant protection plan or writing the abatement report. In performing abatement or HUD LBP grant-funded interim controls, the certified lead (Pb) supervisor, worker, worker-homeowner or project designer shall comply with all of the following:

(a) *Requirement for supervision of a worker.* A certified lead (Pb) supervisor shall provide direct supervision when a lead (Pb) worker performs lead abatement or other lead hazard reduction work requiring certification.

(b) *Requirement for supervision of a worker-homeowner.* A certified lead (Pb) supervisor shall provide general supervision for a certified lead (Pb) worker-homeowner when certification is required under s. HFS 163.10 (1) (a) 3. or 4., (b) or (c) to perform abatement in the homeowner's own nonrental dwelling or real property. General supervision includes being onsite during all work site preparation and the post-abatement cleanup of work areas and being either at the site or available by telephone, pager or answering service and able to be present at the work site in no more than 2 hours at all other times when abatement activities are being performed.

(c) *Requirement for ensuring compliance.* A certified lead (Pb) supervisor and the certified lead (Pb) company employing that supervisor shall ensure that all lead hazard reduction activities for which certification is required are conducted in a manner that does not increase lead-based paint hazards to the occupant of the dwelling or child-occupied facility and are conducted according to the requirements of this section and all other federal, state and local government requirements.

(d) *Requirement for notification of lead hazard reduction.* Before performing a lead hazard reduction activity for which certification is required, a lead (Pb) company's supervisor certified under s. HFS 163.12 (2) (d), a certified worker-homeowner, or the person contracting for performance of the lead hazard reduction activity shall notify the department of the activity as follows:

1. 'Original notice.' Except as provided under subd. 2., the supervisor or worker-homeowner shall submit written or verbal notification for receipt by the department not less than 2 work days before the start of the activity.

Note: If verbal notification is given under par. (f), written notification must follow. See par. (f) 3.

2. 'Emergency notification.' In an emergency where a health risk warrants immediate action, a supervisor or worker-home-

owner shall make written or verbal emergency notification for receipt by the department before the start of the activity.

3. 'Revised notice.' a. To change the project start date on an existing notice, the supervisor or worker-homeowner shall submit written or verbal revised notification for receipt by the department not less than 2 work days before the activity begins if the new start date is earlier than the original start date or a minimum of one work day before the original start date if the new start date is later than the original start date.

b. To change the project end date on an existing notice, the supervisor or worker-homeowner shall submit written or verbal revised notification as soon as the change is determined, but no later than the original end date.

(e) *Written lead hazard reduction notification.* 1. 'Form for written notification.' Written notification for a lead hazard reduction activity shall be on the department's notification form or on a form approved by the department and shall include all of the following information:

a. Project details, including the start and end dates, work shifts or hours, whether the project is abatement or interim controls, project activities, quantity of lead-based paint materials in the project, and whether the project was ordered or HUD LBP grant-funded.

b. Lead identification details, including how and when it was identified and the name and certification number of the inspector or risk assessor.

c. Abatement lead (Pb) company details, including name, certification number, address, contact person and telephone number.

d. Facility or dwelling details, including type, occupancy, location, contact person and telephone number and owner and telephone number.

2. 'Acceptable methods for submitting written notification.' Written notification may be sent by U.S. mail, commercial carrier, fax or another method approved by the department.

3. 'Official date of written notification.' The official date of a written notification shall be the date on the department's date of receipt stamp. A notification received after 4:00 p.m. shall be dated as received the next work day.

4. 'Rejection of notification.' The department may reject a notification that is illegible or not complete.

5. 'Retention of original notification.' Any person submitting a fax or other form of notification to the department that does not carry the supervisor's actual original signature shall retain the original notification carrying the supervisor's actual original signature and shall give the original notification to the department upon request of the department's representative.

Note: To request a copy of the Department's notification form, to request approval of a form or method of submission or to submit written notification, contact the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043 or fax (608) 266-9711.

(f) *Verbal lead hazard reduction notification.* 1. 'Acceptable methods for submitting verbal notification.' When verbal notification is appropriate, verbal notification may be made by telephone or in person and shall include all of the following information:

a. Start and end dates.

b. Name and certification number of the lead (Pb) company conducting the activity.

c. Location of the dwelling or facility where the activity will be conducted.

2. 'Official date of verbal notification.' The official date of a verbal notification shall be the date verbal notification is accepted by a representative of the department.

3. 'Written follow-up to verbal notification.' When verbal notification is given, the supervisor, worker-homeowner, or the person contracting for performance of the lead hazard reduction

activity shall also submit a written notification within 2 work days after the date of the verbal notification.

Note: To submit verbal notification, phone (608) 261-6876 and send the follow-up written notice to the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043.

(g) *Requirement for written occupant protection plan for abatement.* A certified lead (Pb) supervisor or project designer shall prepare a written occupant protection plan prior to an abatement. The occupant protection plan shall be unique to each residential dwelling or child-occupied facility and shall describe the measures and management procedures that will be taken during the abatement to protect the building occupants from exposure to any lead-based paint hazards.

(h) *Restricted lead hazard reduction work practices.* All of the following work practice restrictions apply:

1. 'Open-flame burning or torching.' Open-flame burning or torching of lead-based paint is prohibited.

2. 'Machine sanding, grinding, blasting.' Machine sanding or grinding or abrasive blasting or sandblasting of lead-based paint is prohibited unless used with a high efficiency particulate air (HEPA) exhaust control which removes particles of 0.3 microns or larger from the air at 99.97 percent or greater efficiency.

3. 'Dry scraping.' Dry scraping of lead-based paint is permitted only in the following situations:

a. Dry scraping in conjunction with a heat gun which produces heat at a temperature below 1100°F.

b. Dry scraping around electrical outlets.

c. Dry scraping when treating defective paint spots totaling no more than 2 square feet in any one room, hallway or stairwell or totaling no more than 20 square feet on exterior surfaces.

4. 'Heat gun.' Operating a heat gun which produces heat at a temperature at or above 1100°F is prohibited on lead-based paint.

(i) *Conduct of soil abatement.* Soil abatement shall be conducted by a certified lead (Pb) worker, worker-homeowner or supervisor in one of the following ways:

1. If soil is removed, the lead-contaminated soil shall be replaced with soil that is not lead-contaminated.

2. If soil is not removed, the lead-contaminated soil shall be permanently covered, with a barrier consisting of solid, relatively impermeable materials, such as pavement or concrete. Grass, mulch and other landscaping materials are not considered permanent covering.

(j) *Requirement for clearance of abatement.* Following cleanup of the abatement site, clearance shall be conducted according to provisions under sub. (6). The abatement is not complete until a certified lead (Pb) inspector or risk assessor declares in writing that all clearance levels are met.

(k) *Requirement for a written abatement report.* Following an abatement project, a certified supervisor or project designer shall prepare a written abatement report for submission to the person who contracted for the abatement. The report shall include all of the following:

1. 'Dates.' Start and end dates of the abatement project if different from the dates on the abatement notice.

2. 'Abatement notice.' A copy of the written abatement notice under par. (e) or (f) 3.

3. 'Abatement lead (Pb) company information.' Name, address, telephone number and certification number of each certified lead (Pb) company conducting the abatement project and the name and certification number of each supervisor assigned to the abatement project to the extent that information is not included on an attached abatement notification.

4. 'Occupant protection plan.' The occupant protection plan which was prepared prior to the abatement project.

5. 'Clearance report.' A copy of the clearance report under sub. (6) (j).

6. 'Description of abatement project.' A detailed written description of the abatement project, including abatement methods used, locations of rooms and components where abatement occurred, reason for selecting the particular abatement method used for each component and any suggested monitoring of encapsulants or enclosures.

Note: Rather than repeat information already located elsewhere, the abatement report may include other documents which contain required information, such as an order, contract or abatement notice. For example, to provide a detailed description of the abatement, orders issued by a public health agency may be attached and variances from the order described in the report.

(6) **CLEARANCE.** Only a certified lead (Pb) inspector or risk assessor may perform clearance. In performing clearance, the certified lead (Pb) inspector or risk assessor shall comply with all of the following:

(a) Perform a visual inspection to determine if deteriorated painted surfaces or visible amounts of dust, debris or residue are still present. If deteriorated painted surfaces or visible amounts of dust, debris or residue are present, the abatement lead (Pb) company shall eliminate these conditions prior to the continuation of the clearance procedures.

(b) Following the visual inspection and any post-abatement cleanup, conduct clearance sampling for lead-contaminated dust by collecting single-surface dust samples or by using the standards under sub. (8) to collect composite dust samples.

(c) Collect dust samples for clearance purposes by using documented methodologies that incorporate adequate quality control procedures.

Note: Refer to the note under s. HFS 163.03 (23) for examples of documented methodologies.

(d) Collect dust samples for clearance purposes a minimum of one hour after completion of final post-abatement cleanup activities.

(e) Conduct all of the following post-abatement clearance activities as appropriate based upon the extent or manner of the abatement:

1. Following an abatement with containment between abated and unabated areas, collect one dust sample from one window, if available, and one dust sample from the floors of not less than 4 rooms, hallways or stairwells within the containment area. In addition, collect one dust sample from the floor outside the containment area. If there are fewer than 4 rooms, hallways or stairwells within the containment area, collect samples from all rooms, hallways or stairwells.

Note: According to The U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing, the floor sample taken outside of containment should be taken within 10 feet of the airlock in order to determine the effectiveness of the containment.

2. Following an abatement with no containment, collect 2 dust samples from not less than 4 rooms, hallways or stairwells in the residential dwelling or child-occupied facility. Collect one dust sample from one window, if available, and one dust sample from the floor of each room, hallway or stairwell selected. If there are fewer than 4 rooms, hallways or stairwells within the residential dwelling or child-occupied facility, collect samples from all rooms, hallways or stairwells.

3. Following an exterior paint abatement, conduct a visual inspection. If visible dust or debris is present on horizontal surfaces in the outdoor living area closest to the abated surface, such as a porch, patio, deck, sidewalk or stoop, the abatement lead (Pb) company shall eliminate these conditions before clearance may continue. In addition, conduct a visual inspection to determine the presence of paint chips on the dripline, next to the foundation, or any other surface below any exterior surface abated. If paint chips are present, the abatement lead (Pb) company shall remove the paint chips from the site and properly dispose of them according to applicable federal, state and local government requirements.

(f) Select the rooms, hallways or stairwells for sampling by using documented methodologies.

(g) Have collected samples analyzed by a recognized laboratory under sub. (7) to determine if they contain detectable levels of lead that can be quantified numerically.

(h) Compare the residual lead level from each dust sample, as determined by laboratory analysis, with the applicable clearance level for lead in dust on floors and windows. If the residual lead level in a dust sample exceeds the applicable clearance level, all the components represented by the failed sample shall be recleaned by the abatement lead (Pb) company and retested by the person conducting clearance until clearance levels are met. Clearance levels include all of the following:

1. For an uncarpeted floor, 100 µg/ft².
2. For an interior window sill, or window stool, 500 µg/ft².
3. For a window well, or window trough, 800 µg/ft².

Note: Clearance levels established above are the same as clearance levels in EPA's *Agency Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil*.

(i) In a multi-family dwelling with similarly constructed and maintained dwelling units, conduct random sampling for purposes of clearance provided that:

1. The persons who abate or clean the dwelling units do not know which dwelling units will be selected for the random sample.

2. A sufficient number of dwelling units are selected for dust sampling to provide a 95% level of confidence that at least 95% of all dwelling units would pass clearance if all dwelling units were sampled. In a housing complex with more than 1,000 dwelling units, no sampled dwelling unit may fail clearance and a sufficient number of dwelling units shall be selected for dust sampling to provide a 95% level of confidence that no more than 5% of all dwelling units or 50 dwelling units, whichever is smaller, would fail clearance if all dwelling units were sampled.

Note: For assistance in selecting the correct sample size, refer to Appendix B of this chapter and to Appendix 12 of the U.S. Department of Housing and Urban Development (HUD) Guidelines for the Evaluation and Control for Lead-Based Paint Hazards in Housing.

3. The randomly selected dwelling units are sampled and evaluated for clearance according to the procedures found in pars. (a) to (h).

(j) Following clearance, prepare a written clearance report for submission to the abatement contractor and the person who contracted for the clearance. The report shall include all of the following information:

1. Date of the clearance.
2. Address of abatement site.
3. Name, address, telephone number, certification number and signature of each certified lead (Pb) inspector or risk assessor conducting the clearance.
4. Name, address, telephone number and certification number of the certified lead (Pb) company employing each certified risk assessor conducting the risk assessment, if applicable.
5. The results of clearance testing and, if applicable, all soil analyses and the name, address and telephone number of each recognized laboratory that conducted the analyses.

(7) COLLECTION AND LABORATORY ANALYSIS OF SAMPLES. Any paint chip, dust or soil sample collected by a certified lead (Pb) inspector or risk assessor as part of a lead-based paint activity shall be analyzed by a recognized laboratory.

Note: To obtain a list of recognized laboratories, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. The National Lead Information Center (NLIC) Clearinghouse updates the National Lead Laboratory Accreditation Program (NLLAP) list on a monthly basis. An updated list may be obtained by calling NLIC at 1-800-424-5323.

(8) COMPOSITE DUST SAMPLING. Composite dust sampling may only be conducted in the situations specified in subs. (3), (4)

and (6). If composite dust sampling is conducted, all of the following conditions shall apply:

(a) A composite dust sample shall consist of at least 2 subsamples.

(b) All required dust subsamples for any one type of component shall be included in one composite sample.

(c) A composite dust sample may not consist of subsamples from more than one type of component.

(9) RECORDKEEPING. All reports or plans required under this section shall be retained for a minimum of 3 years by the certified lead (Pb) company that prepared the reports or plans.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

Subchapter III — Accreditation of Lead Training Courses and Approval of Training Managers and Instructors

HFS 163.20 Accreditation requirements.

(1) REQUIREMENT FOR ACCREDITATION. No person may offer, advertise, claim to provide or conduct a lead (Pb) training course that is represented as qualifying any person for certification in this state under subchs. I and II unless that training course has received accreditation from the department, has an approved principal instructor, uses only approved instructors and the training provider is owned by or employs an approved training manager.

(2) ONLY TRAINING COURSES. Department accreditation is provided only for a specific training course designed for individuals seeking certification or recertification in a discipline under s. HFS 163.10 (2), not for a training institution or a training program.

(3) ONLY IN-STATE COURSES. The department may grant full training course accreditation only to training courses conducted in Wisconsin. When review of a course is needed to ensure the quality of training received by individuals seeking certification in Wisconsin, the department may, but is not required to, accept and review applications for contingent accreditation from training courses conducted in another state.

(4) TYPES OF COURSES. (a) *Separate accreditation.* Separate accreditation is required for each training course, whether an initial course or a refresher course. A separate application under s. HFS 163.21 is also required for each course, but 2 or more applications may be submitted at the same time.

(b) *Initial training course.* An initial training course shall be for a specific discipline under s. HFS 163.10(2) and shall meet all requirements of this section and all responsibility provisions of s. HFS 163.25.

(c) *Refresher training course.* A refresher training course shall be separate and distinct from the initial training course, be for a specific discipline under s. HFS 163.10(2) and meet all accreditation requirements of this section and all responsibility provisions of s. HFS 163.25. A refresher course may not be accredited unless an initial course in the same discipline and by the same training provider is accredited by the department.

(5) TRAINING RESOURCES. An accredited training course shall be conducted using facilities, equipment and instructional materials that are adequate to achieve the learning objectives for which the course is offered. Facilities shall have space for classroom, hands-on and field training; instructional material shall be complete and kept up-to-date; and equipment shall reflect current work practices, shall be maintained in proper working condition and shall be licensed and stored in compliance with applicable requirements and regulations. Students shall be given course material that adequately supports the learning goals and objectives of the course and that the student may use as reference material to enhance compliance with lead-based paint regulations and standards.

(6) APPROVED TRAINING MANAGER. (a) *Requirement for a training manager.* The training provider or an owner of a training

provider business shall be an approved training manager. If the training provider or owner is not eligible for approval as a training manager, the training provider shall employ a training manager who is approved under s. HFS 163.24 (2). The actions of the training manager shall be deemed actions of the owner.

(b) *Duties of the training manager.* The duties of the training manager include all of the following:

1. Designating a minimum of one principal instructor under sub. (7) (a) for each accredited course.
2. Designating any guest instructors under sub. (7) (b).
3. Developing and implementing a quality control plan under sub. (8) (e).
4. Maintaining the validity and integrity of the course test under sub. (8) (f).
5. Maintaining the validity and integrity of the hands-on skills assessment under sub. (8) (g) to ensure that it accurately evaluates the trainees' performance of the work practices and procedures associated with the course topics under sub. (8) (a).
6. Ensuring that the training course and course personnel comply with all provisions of this chapter.

(7) **APPROVED INSTRUCTORS.** (a) *Principal instructor.* Each training course offered shall have a designated principal instructor who is approved under s. HFS 163.24 (3). The principal instructor has the primary responsibility for the organization and teaching of the course and for direct supervision of all guest instructors for the course. An individual may not act as a principal instructor for 2 or more concurrently conducted training courses.

(b) *Guest instructor.* A guest instructor approved under s. HFS 163.24 (4) may be designated to teach under the direct supervision of a principal instructor or to assist a principal instructor with hands-on instructional activities, hands-on skills assessment or work practice components of a course. A guest instructor may teach or assist with only the specific topics for which the guest instructor has been approved.

(c) *Instructors for hands-on instructional activities and skills assessment.* An accredited training course shall meet or exceed all of the following instructor requirements for hands-on activities:

1. 'Principal instructor.' At least one principal instructor shall provide direct supervision of each hands-on instructional activity and skills assessment.
2. 'Student-to-instructor ratio.' A student-to-instructor ratio of not greater than 8:1 shall be maintained during hands-on instructional activities and a student-to-instructor ratio of not greater than 5:1 shall be maintained during hands-on skills assessment to ensure adequate instruction and observation of student performance.
3. 'Guest instructors.' One or more guest instructors may assist the principal instructor with hands-on instructional activities and skills assessment.

(8) **TRAINING COURSE.** (a) *Curriculum.* An accredited training course shall teach work practice standards that are consistent with s. HFS 163.14 in order to provide students with the knowledge needed to perform the lead-based paint activities they are responsible for conducting. A training course shall meet or exceed the applicable minimum curriculum requirements, including both the minimum number of course training hours and the minimum number of hands-on training hours, as follows:

1. 'Lead (Pb) inspector courses.' A lead inspector training course shall provide a minimum of 24 training hours to persons who have successfully completed worker-safety training. The lead inspector training course shall include lectures, demonstrations, a minimum of 8 training hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of

the following topics, which are further described in sub. (1) of Appendix A:

- a. Role and responsibilities of a lead (Pb) inspector.
- b. Background information on lead and its adverse health effects.
- c. Background information on federal, state and local regulations and guidance that pertains to lead-based paint and lead-based paint activities.
- d. Lead-based paint inspection methods, including selection of rooms and components for sampling or testing. This topic shall include hands-on instructional activities and hands-on skills assessment.
- e. Paint, dust and soil sampling methodologies. This topic shall include hands-on instructional activities and hands-on skills assessment.
- f. Clearance standards and testing, including random sampling. This topic shall include hands-on instructional activities and hands-on skills assessment.
- g. Preparation of the final inspection report. This topic shall include hands-on instructional activities and hands-on skills assessment.
- h. Recordkeeping.

2. 'Lead (Pb) project designer courses.' A lead project designer training course shall provide a minimum of 8 training hours to persons who have successfully completed the lead supervisor course. The lead project designer training course shall include lectures, demonstrations, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (2) of Appendix A:

- a. Role and responsibilities of a lead (Pb) project designer.
- b. Development and implementation of an occupant protection plan for large-scale abatement projects.
- c. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices for large-scale abatement projects.
- d. Interior dust abatement and cleanup or lead hazard reduction methods for large-scale abatement projects.
- e. Clearance standards and testing for large-scale abatement projects.
- f. Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large-scale abatement projects.

3. 'Lead (Pb) risk assessor courses.' A lead risk assessor training course shall provide a minimum of 16 training hours to persons who have successfully completed the lead inspector course. The lead risk assessor training course shall include lectures, demonstrations, a minimum of 4 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (3) of Appendix A:

- a. Role and responsibilities of a lead (Pb) risk assessor.
- b. Collection of background information to perform a risk assessment.
- c. Sources of environmental lead contamination such as paint, surface dust and soil, water, air, packaging and food.
- d. Visual inspection for purposes of identifying potential sources of lead-based paint hazards. This topic shall include hands-on instructional activities and hands-on skills assessment.
- e. Lead hazard screen protocol.

f. Sampling for sources of lead exposure other than lead-based paint. This topic shall include hands-on instructional activities and hands-on skills assessment.

g. Interpretation of lead-based paint and other lead sampling results, including all applicable state and federal regulations and guidance pertaining to lead-based paint hazards. This topic shall include hands-on instructional activities and hands-on skills assessment.

h. Development of hazard control options, the role of interim controls and operations and maintenance activities to reduce lead-based paint hazards.

i. Preparation of a final risk assessment report.

4. 'Lead (Pb) supervisor courses.' A lead supervisor training course shall provide a minimum of 16 training hours to persons who have successfully completed the lead worker course. The lead supervisor training course shall include lectures, demonstrations, a minimum of one hour of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (4) of Appendix A:

a. Role and responsibilities of a lead (Pb) supervisor.

b. Background information on lead and its adverse health effects.

c. Background information on federal, state and local regulations and guidance that pertain to lead-based paint abatement.

d. Liability and insurance issues relating to lead-based paint abatement.

e. Risk assessment and inspection report interpretation. This topic shall include hands-on instructional activities and hands-on skills assessment.

f. Development and implementation of an occupant protection plan and abatement report.

g. Lead-based paint hazard recognition and control. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

h. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

i. Interior dust abatement, cleanup, lead-based paint hazard control and reduction methods. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

j. Soil and exterior dust abatement, lead-based paint hazard control and reduction methods. The hands-on instructional activities and hands-on skills assessment for this topic are covered in the prerequisite worker course.

k. Clearance standards and testing.

L. Cleanup and waste disposal.

m. Recordkeeping.

5. 'Lead (Pb) worker courses.' A lead worker training course shall provide a minimum of 16 training hours to persons who have successfully completed worker-safety training. The lead worker training course shall include lectures, demonstrations, a minimum of 8 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (5) of Appendix A:

a. Role and responsibilities of a lead (Pb) worker.

b. Background information on lead and its adverse health effects.

c. Background information on federal, state and local regulations and guidance that pertains to lead-based paint abatement.

d. Lead-based paint hazard recognition and control. This topic shall include hands-on instructional activities and hands-on skills assessment.

e. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. This topic shall include hands-on instructional activities and hands-on skills assessment.

f. Interior dust abatement methods, cleanup and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

g. Soil and exterior dust abatement methods and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

6. 'Lead (Pb) worker-homeowner courses.' A lead worker-homeowner training course for homeowners performing work in their own non-rental dwelling shall provide a minimum of 16 training hours. The lead worker-homeowner training course shall include lectures, demonstrations, a minimum of 8 hours of hands-on practice, hands-on skills assessment, a course review and a written course test. The training course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (6) of Appendix A:

a. Role and responsibilities of a lead (Pb) worker-homeowner.

b. Background information on lead and its adverse health effects.

c. Background information on federal, state and local regulations and guidance that pertains to lead-based paint abatement.

d. Lead-based paint hazard recognition and control. This topic shall include hands-on instructional activities and hands-on skills assessment.

e. Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices. This topic shall include hands-on instructional activities and hands-on skills assessment.

f. Interior dust abatement methods, cleanup and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

g. Soil and exterior dust abatement methods and lead-based paint hazard reduction. This topic shall include hands-on instructional activities and hands-on skills assessment.

7. 'Lead refresher courses.' Each refresher training course shall be a minimum of 8 training hours, except that a lead (Pb) project designer refresher training course shall be a minimum of 4 training hours. Each refresher training course shall include lectures, participatory activities and a written course test and shall include hands-on instructional activities and hands-on skills assessment as appropriate. Each refresher course shall adequately cover the course learning goals and objectives submitted by the training manager and all of the following topics, which are further described in sub. (7) of Appendix A:

a. Review of the curriculum topics for the full-length course, as appropriate.

b. An overview of current safety practices relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

c. Current federal, state and local statutes, ordinances, rules and regulations relating to lead-based paint activities in general, as well as specific information pertaining to the discipline.

d. Current technologies relating to lead-based paint activities in general, as well as specific information pertaining to the appropriate discipline.

Note: Since certified risk assessors are required to complete both lead inspector and risk assessor refresher training courses, training providers are urged to offer lead (Pb) inspector and risk assessor refresher courses on consecutive days to assist them in complying with training requirements.

(b) *Length of training.* All required training for any conducted course shall be completed within a continuous 30-day period. In no case may actual training exceed 8 training hours during any single calendar day.

(c) *Learning goals and objectives.* An accredited training course shall have written learning goals and objectives.

Note: To obtain model learning goals and objectives for preparing students to take a lead certification examination, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

(d) *Teaching methods.* An accredited training course shall be taught using a variety of teaching methods designed to meet the course learning goals and objectives, including methods which require active participation by the students.

Note: Examples of participatory teaching methods include: hands-on exercise, questionnaire, problem solving, quiz, worksheet exercise, focus questions, case study, brainstorming, on-site visit, learning games, group discussion, role play, writing assignment and personal action plan.

(e) *Quality control plan.* The training manager shall develop and implement a quality control plan for an accredited training course. The quality control plan shall include procedures for annual review and revision of training materials and the course test to reflect innovations and changes in the field and procedures for annually reviewing instructor competency.

(f) *Course test.* 1. A written, closed-book course test, monitored by the principal instructor or training manager, shall be administered for each initial training course and refresher training course.

2. Course tests shall be submitted to the department for review as part of the application for accreditation and shall be resubmitted whenever their content changes. Only course tests which have been approved by the department may be administered.

3. A course test shall be developed in accordance with the course test blueprint, shall reflect the learning goals and objectives of the training course in weighted content and shall consist of a minimum of 25 multiple choice questions for every 8 training hours.

4. The minimum passing score on a course test shall be correct answers to 70% of the total number of questions.

5. A student who fails the course test must retake the entire course test, but may not take the course test more than once in a given day.

6. The training manager shall maintain the validity and integrity of the course test to ensure that it accurately evaluates each student's knowledge and skills. The training manager shall ensure that only the full course test is administered and not a portion of the course test.

(g) *Hands-on skills assessment.* The principal instructor shall conduct and document a hands-on skills assessment of each student for each topic under par. (a) for which hands-on instructional activities are required and for each refresher course topic where hands-on instructional activities are performed. Guest instructors who are approved for a topic requiring hands-on instruction may assist the principal instructor in performing hands-on skills assessment for the topic. A student-to-instructor ratio of not greater than 5:1 shall be maintained during hands-on skills assessment.

(9) **TRAINING CERTIFICATE.** (a) *Requirement for training certificate.* After verifying a student's identity, the training manager shall issue a training certificate to a student when the student completes a course and passes the course test and any required skills assessment.

(b) *Content of training certificate.* A training certificate shall include all of the following information:

1. A unique certificate number.
2. The date the certificate is issued.
3. The name of the course, which shall be related to a specific discipline under s. HFS 163.10 (2), and which shall clearly indicate whether the course is an initial course or a refresher course.

4. The student's full legal name and address.

5. The date or dates of the course, including starting and ending dates for consecutive day courses and each date of training for courses conducted on days that are not consecutive.

6. A statement that the student passed the course test.

7. The date of the course test.

8. The name, address and telephone number of the provider of the training course, as the information appears on the application for accreditation or is later changed by notice to the department under s. HFS 163.25 (5) (a) or (b).

9. The name and signature of the course training manager.

10. The following statement: "This training course complies with the requirements of and is accredited by the State of Wisconsin, Department of Health and Family Services under ch. HFS 163, Wis. Adm. Code."

Note: For liability and security reasons, an individual's social security number should not be included on the training certificate.

(10) **COMPLIANCE.** The training provider, the training manager and all instructors shall remain in compliance with applicable federal, state and local regulations related to lead-based paint activities and the conduct of training.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.21 Application for accreditation. To request accreditation of a lead training course, the approved training manager, on behalf of the training provider, shall submit all of the following to the department:

(1) **COMPLETED APPLICATION FORM.** A fully and accurately completed application on a form obtained from the department. The application shall include the federal employer identification number or social security number for the training provider, social security numbers for all owners of the course and a statement signed by the training manager which certifies that the training course meets the requirements of this subchapter.

Note: For a copy of the application form and instructions for submitting an application, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application and fee to the same office.

(2) **TRAINING COURSE DESCRIPTION.** A written description of the training course, including all of the following:

(a) *Topics.* Major topics covered.

(b) *Course length.* Length of training in days and training hours per day, excluding lunches and breaks.

(c) *Hands-on training.* Hands-on training segments, when hands-on training is used, including the number of training hours for each segment, a description of the hands-on skills assessment conducted by the principal instructor and a copy of the skills assessment check-off form.

(d) *Student-to-instructor ratio.* Student-to-instructor ratio during any hands-on training and hands-on skills assessment.

(3) **TRAINING RESOURCES DESCRIPTION.** A written description of training resources, including all of the following:

(a) *Facilities.* Facilities used for training, including classroom and any field sites.

(b) *Training and work-practice equipment.* Training equipment and work-practice equipment, including location and method of storage.

(c) *Audiovisual and work-practice materials.* Training audiovisual materials such as videos, slides, overheads, photographs and displays, and work-practice materials such as personal protective clothing, respirators and cartridges, duct tape, polyethylene sheeting, high efficiency particulate air vacuums, glove bags and hand tools, including the location where they are stored.

(4) **RECORDKEEPING DESCRIPTION.** A written description of how the recordkeeping requirements under s. HFS 163.25 (7) will be met, including all of the following:

(a) *Records retained.* Types of records kept and for what length of time.

(b) *Records location.* The complete street address of the location where the records will be kept.

(c) *Business hours.* Normal business days and hours at the location under par. (b).

(5) **COURSE REGISTRATION PLAN.** A written course registration plan consisting of a plan for advising potential students of education and experience qualifications under s. HFS 163.10 (3) (b) and a written plan for admitting only students who meet lead training prerequisites under s. HFS 163.11 (2), (3) and (5).

(6) **COURSE MATERIALS.** All course materials, including copies of all of the following:

(a) *Agenda.* An agenda with scheduled times for each day of training, major topics with times allocated, hands-on training segments with times allocated and all break and lunch periods.

(b) *Student materials.* The student course manual, course materials and handouts used in the course.

(c) *Instructor materials.* The instructor course manual, which shall include all of the following:

1. Learning goals and objectives.
2. Training outlines for each topic.
3. Time frames for each topic.
4. Teaching methods for each topic.

5. Audio-visual materials used for each topic, including copies of handouts and overheads, and titles and descriptions of video, film or slide programs.

6. Interactive training exercises, including instructions and descriptions or samples of materials.

7. Hands-on training exercises, if used, including instructions and descriptions or samples of materials.

(d) *Topical analysis worksheet.* The department's training criteria topical analysis worksheet, on which the applicant enters the location of specific information in the student course manual and materials.

(e) *Course test and key.* The course test and answer key for each course test.

(f) *Course test blueprint.* The course test blueprint which shows how the course test was developed to reflect the course content and learning objectives.

(g) *Score report and test policy.* A form for notifying a student of the student's course test score and any policy for retaking the course test.

(h) *Evaluation form.* A course and instructor evaluation form.

(i) *Training certificate.* A sample training certificate under s. HFS 163.20 (9) which is issued by the training manager to students who successfully complete all course requirements. To assist the department in identifying original training certificates, the sample training certificate shall be printed on the same paper and in the same color as the actual certificate.

(j) *Advertising.* Samples of any proposed advertising materials for promoting the course.

(k) *Other approval letter.* A copy of the EPA, tribal or other state approval letter if the course was previously approved by EPA, an EPA-authorized tribal program or another state.

(7) **NAMES OF COURSE PERSONNEL.** (a) Except as provided in par. (b), the names of the approved training manager and the designated principal instructor in charge of the course as well as the names of any additional principal instructors and guest instructors.

(b) The names of the instructors do not need to be submitted with the application, but the names of approved principal and guest instructors shall be submitted before the course is offered. If an application for approval of an instructor is made at the time of application for training course accreditation, the materials submitted to the department for training course accreditation shall include completed instructor approval application forms and all

other materials required under s. HFS 163.24 for approval of instructors.

Note: For a copy of the instructor approval application form, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed form to the same office.

(8) **INDEX OF SUBMITTED MATERIALS.** A written index of all information and materials submitted with the application for accreditation to facilitate review for compliance.

(9) **ACCREDITATION FEES.** The appropriate application fee under par. (a) and accreditation fee under par. (b) as follows:

(a) *Application fee.* Each application for contingent course accreditation shall be accompanied by a nonrefundable application fee of \$500 for an initial course for any one discipline and \$125 for a refresher course for any one discipline.

(b) *Accreditation fee.* Each application for course accreditation shall be accompanied by an accreditation fee of \$500 for 0-24 months or \$1,000 for 24-48 months for an initial course for any one discipline and \$250 for 0-24 months or \$500 for 24-48 months for a refresher course for any one discipline. The department shall refund the accreditation fee if accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

(10) **QUALITY CONTROL PLAN.** A copy of the written quality control plan developed under s. HFS 163.20 (8) (e).

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.22 Accreditation procedures. (1) **DETERMINATION OF ELIGIBILITY FOR CONTINGENT ACCREDITATION.** The department shall review all information and materials submitted under s. HFS 163.21 for compliance with this subchapter. Within 60 days after the department receives all required application information and materials, the department shall either grant contingent accreditation or deny the application. If contingent accreditation is granted, the department shall send the training manager a contingent accreditation certificate under sub. (5). If the application for accreditation is denied, the department shall notify the training manager in writing. The notification shall include the reason for the denial and shall inform the training manager of the right to appeal that determination under s. HFS 163.33.

(2) **CONDUCTING A COURSE WITH CONTINGENT ACCREDITATION.** The training course may be conducted once the training manager has received the contingent accreditation certificate for the course and confirmation that the principal instructor and guest instructors are approved under s. HFS 163.24, and has notified the department under s. HFS 163.25 (3) that the course is to begin.

(3) **LENGTH OF CONTINGENT ACCREDITATION.** Contingent accreditation is a temporary approval to conduct training. When the department grants contingent accreditation, the expiration date on the contingent accreditation certificate under sub. (5) shall be 2 years after the date the certificate is issued. Contingent accreditation may be renewed for a maximum of an additional 2 years at the discretion of the department.

(4) **DETERMINATION OF ELIGIBILITY FOR FULL ACCREDITATION.** The department shall conduct an accreditation audit under sub. (6) of a training course with contingent accreditation to determine eligibility for full accreditation. After notifying the training manager of the audit results, and based on those results, the department shall take one of the following actions:

(a) *Grant full accreditation.* The department may grant full accreditation. If full accreditation is granted, the department shall send the training manager an accreditation certificate under sub. (5). Full accreditation may be granted for a maximum of 4 years from the date of issuance, depending on the length of time requested, the amount of the fee paid under s. HFS 163.21 (9) (b) and compliance with this chapter. A training course may renew accreditation under the provisions of s. HFS 163.23.

(b) *Renew contingent accreditation.* The department may renew contingent accreditation for an additional 2 years, may

require changes to the course in order to obtain full accreditation and may conduct another on-site audit. If the department continues contingent accreditation, the department shall notify the training manager in writing. The notice shall include the reason for continuing contingent accreditation, recommendations for achieving full accreditation and the right to appeal the action under s. HFS 163.33.

(c) *Suspend or revoke contingent accreditation.* The department may suspend or revoke contingent accreditation or take another enforcement action under s. HFS 163.32. If the department suspends or revokes contingent accreditation, the department shall notify the training manager in writing. The notice shall include the reason for the suspension or revocation and shall inform the training manager of the right to appeal that action under s. HFS 163.33.

(5) **CERTIFICATE OF ACCREDITATION.** The department shall send a certificate of accreditation to the training manager when a training course has been granted contingent or full accreditation. The training manager shall maintain the certificate of accreditation at the address listed on the application or later changed with notice to the department under s. HFS 163.25 (5) (a) and shall make the certificate available for review upon request by the department or the public. Only the most recent certificate of accreditation for a training course is valid. The training manager shall not allow another person to copy the certificate of accreditation for fraudulent or misleading purposes or to use the certificate.

(6) **ACCREDITATION AUDITS.** (a) *On-site audits.* On-site accreditation audits of a training course may be conducted by department staff to review for compliance with this subchapter. A training manager, instructor or other staff for an accredited training course may not deny department staff entry to conduct an audit. An audit may include, but is not limited to, a review of records, facilities, instructional curriculum, course test administration and security procedures, classroom instruction, audio-visual materials, course content and learning objectives, including whether classroom instruction is based on the learning goals and objectives submitted to the department under s. HFS 163.21 (6) (c), as demonstrated by using learning objectives to introduce topics, focusing topics on the learning objectives, reviewing learning objectives in topic reviews and testing for student comprehension of the learning objectives through class discussions, class activities and the course test.

(b) *Records audits.* The department may conduct audits of training course records, including records required under s. HFS 163.25 (7), and may require a training provider to submit records to the department for purposes of determining compliance.

(c) *Notification of audit results.* Within 60 days after completing an accreditation audit, the department shall notify the training manager in writing of the audit results.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.23 Renewal of course accreditation.

(1) **REQUIREMENT FOR RENEWAL OF ACCREDITATION.** A training course may not be conducted after its accreditation expires until the training manager applies for and receives renewal of accreditation for the training course. When accreditation of a training course has been expired for less than one year, accreditation may be reinstated by applying to the department for renewal of accreditation under this section. When accreditation of a training course has been expired for one year or longer, the training manager shall submit a new application under s. HFS 163.21 for contingent accreditation.

(2) **CONDITIONS FOR RENEWAL OF ACCREDITATION.** The department may renew accreditation of a training course that complies with the provisions of this chapter.

(3) **APPLICATION FOR RENEWAL OF ACCREDITATION.** To apply for renewal of accreditation, the training manager for a training

course shall submit an application which includes all of the following:

(a) *Application form.* A fully and accurately completed application form. The application shall include a statement signed by the training manager which certifies that the training course complies at all times with the requirements of this chapter.

(b) *Description of changes.* A description of any changes to the training course since the last application was approved that were not previously reported to the department, including changes to resources or course materials.

(c) *Other documents.* When directed by the department, other documents that verify compliance of the training course with this chapter.

(d) *Accreditation fee.* 1. Each application for renewal of course accreditation shall be accompanied by an accreditation fee of \$500 for 0-24 months for an initial course for any one discipline and \$250 for 0-24 months for a refresher course for any one discipline. The department shall refund the accreditation fee if renewal of accreditation is denied, the training provider does not owe the department other fees and the denial is not appealed or the denial is appealed and upheld.

2. A person who submits a check that is not honored by the bank on which it is drawn shall pay a \$25 service charge in addition to the required fee.

Note: To obtain a copy of the application for renewal of accreditation, write or phone the Asbestos and Lead Section, Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application to the same office.

(4) **AUDIT.** To determine compliance with the requirements of this chapter and eligibility for renewal of accreditation, the department may conduct one or more audits under s. HFS 163.22 (6) of the training course.

(5) **RENEWAL OF ACCREDITATION.** After reviewing a training course for compliance with the conditions for renewal of accreditation, the department shall take one of the following actions:

(a) *Grant renewal of accreditation.* If accreditation is renewed, the department shall send the training manager a certificate of accreditation under s. HFS 163.22 (5) to extend accreditation for a maximum of 4 years, depending on the fee amount paid and compliance with this chapter.

(b) *Deny renewal of accreditation.* If the department denies renewal of accreditation, the department shall notify the training manager in writing. The notice shall include the reason for the denial and shall inform the training manager of the right to appeal that action under s. HFS 163.33.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.24 Training manager and instructor approval. (1) **REQUIREMENT FOR APPROVAL.** No individual may function as a training manager, principal instructor or guest instructor of an accredited training course without being approved by the department under this section.

(2) **TRAINING MANAGER.** (a) *Qualifications.* A training manager shall have demonstrated experience, education or training in the construction industry, which may include lead or asbestos abatement, painting, carpentry, renovation, remodeling, occupational safety and health or industrial hygiene and shall have one of the following:

1. At least 2 years of experience, education or training in teaching workers or adults.

2. A bachelor's or graduate degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration, program management or a related field.

3. Two years of experience in managing a training program specializing in environmental hazards.

(b) *Application requirements.* An applicant for approval as a training manager shall submit to the department all of the following:

1. 'Application form.' A fully and accurately completed application on a form obtained from the department. The application shall include the applicant's social security number.

2. 'Documentation of qualifications.' Documentation to establish that the applicant meets the qualifications in par. (a).

Note: Examples of documentation are: official academic transcripts or a diploma as evidence of meeting education requirements, and letters of reference or documentation of previous work as evidence of meeting experience requirements.

Note: For a copy of the Department's application form for approval of a training manager, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 work days after the submission of all required application information, including acceptable documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a training manager.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* Training manager approval is valid until the training manager surrenders the certificate of approval to the department or until the department suspends or revokes certification under provisions of subch. IV.

(3) PRINCIPAL INSTRUCTOR. (a) *Qualifications.* 1. 'Training.' A principal instructor shall have successfully completed all of the following training:

a. A teaching methods course which covers, at a minimum, principles of adult learning, training course design, non-lecture instructional methods, use of audio-visual and other instructional resources, teaching methods, learning objectives, guided discovery and learning styles and maintaining classroom control for a learning environment. The course shall consist of at least 16 training hours of instruction and shall include a practice teaching component involving critique and evaluation of the applicant's teaching skills. Any degree with an education emphasis which includes educational coursework that covers the topics required in this subdivision paragraph satisfies this requirement.

Note: To obtain assistance in developing learning goals and objectives for a teaching methods course, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

b. At least 16 hours of lead (Pb) training. Training shall meet the requirements under s. HFS 163.11 in each discipline and prerequisite discipline for which approval is sought.

c. For teaching a lead inspector or risk assessor course, training in radiation safety and use of each XRF the instructor will use in the course, as documented by a certificate of training from the manufacturer of the XRF.

2. 'Certification.' A principal instructor shall be currently certified as follows:

a. As a lead (Pb) inspector or risk assessor to teach a lead (Pb) inspector course.

b. As a lead (Pb) project designer to teach a lead project designer course.

c. As a lead (Pb) risk assessor to teach a lead (Pb) risk assessor course.

d. As a lead (Pb) supervisor to teach a lead (Pb) worker, worker-homeowner or supervisor course.

3. 'Experience.' A principal instructor shall meet applicable education and experience requirements under s. HFS 163.10 (3) (b) and comply with one of the following:

a. Have a minimum of one year of applicable experience working in a related field in the 5 years preceding the date the first application for approval is received by the department. The department shall evaluate qualifications in relation to the course the applicant will teach.

Note: Examples of experience which may be accepted to qualify for lead (Pb) worker, worker-homeowner or supervisor principal instructor approval include having direct responsibility for tasks related to the following: lead hazard reduction activities, lead health effects, lead regulations, industrial hygiene activities involving lead, construction of homes or other buildings, painting, weatherization, rehabilitation or home improvement, lead worker protection or abatement relating to other hazardous materials.

Examples of experience which may be accepted to qualify for lead (Pb) inspector or risk assessor principal instructor approval include having direct responsibility for tasks related to the following: lead health effects, public or occupational health care, lead regulations, enforcement of environmental regulations, environmental investigations, building inspections, industrial hygiene activities involving lead, weatherization, rehabilitation or home improvement and lead management activities relating to other hazardous materials.

b. Have one year of experience instructing adults in lead-related topics as part of a course or curriculum recognized by a federal or state governmental agency in the 5 years preceding the date the initial application for approval is received by the department. The department shall evaluate qualifications in relation to the topic or topics that the applicant will teach.

(b) *Application requirements.* An applicant for approval as a principal instructor shall submit to the department all of the following:

1. 'Completed application form.' A fully and accurately completed application on a form obtained from the department. The application shall include the applicant's social security number.

2. 'Resume.' A current resume, including dates and description of related experience and education.

3. 'References.' A minimum of 3 professional references or letters of recommendation, but no more than one from the applicant's current employer.

4. 'XRF training certificate.' A copy of the XRF manufacturer training certificate for a person applying for approval to be the principal instructor for a lead inspector or risk assessor training course.

5. 'Teaching methods certificate.' A teaching methods course certificate or transcript and a course description or agenda which documents that the course meets the requirements under par. (a) 1. a. or documentation of equivalent education.

6. 'Copy of certification card.' A copy of the appropriate state lead certification card, labeled "copy," or an application for certification in the appropriate discipline under par. (a) 2.

7. 'Fee.' A nonrefundable principal instructor application and approval fee of \$50 for each discipline for which approval is sought. The application and approval fee includes the cost of approval for up to 12 months.

Note: For a copy of the Department's application form for approval of a principal instructor, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 work days after the submission of all required application information, including acceptable documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a principal instructor.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* Subject to compliance with this chapter, the department may grant principal instructor approval which shall be valid until the expiration of the instructor's qualifying lead certification or for 12 months, whichever is earlier.

(e) *Renewal of approval.* 1. 'Application.' The department may extend a principal instructor's approval by a maximum of 12 months if the principal instructor applies for renewal of approval by submitting to the department both of the following:

a. A completed application for renewal of approval. The application shall include the applicant's social security number.

b. An annual approval renewal fee of \$25 per discipline. The department shall refund the approval renewal fee if approval is denied and is not appealed or is appealed and the denial is upheld.

2. 'Decision.' a. Within 10 work days after the submission of all required application information, the department shall either grant or deny approval.

b. If renewal of approval is granted, the department shall send the applicant written notification of approval.

c. If renewal of approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

3. 'Duration.' Subject to compliance with this chapter, the department may renew principal instructor approval for up to 12 months. Renewal of principal instructor approval shall be valid until the expiration of the instructor's qualifying lead certification or for 12 months, whichever is earlier.

(4) **GUEST INSTRUCTOR.** (a) *Qualifications.* An applicant for approval as a guest instructor shall have experience in each topic the guest instructor proposes to teach and in each hands-on activity for which the guest instructor will provide assistance to the principal instructor.

(b) *Application requirements.* An applicant for approval as a guest instructor shall submit to the department all of the following:

1. 'Completed application form.' A completed application on a form obtained from the department. The application shall include the applicant's social security number.

2. 'Documentation of training and experience.' Documentation that describes the professional training and experience in each topic the instructor intends to teach and in each hands-on activity for which the instructor will provide assistance.

3. 'References.' At least 3 professional references or letters of recommendation, but no more than one from the applicant's current employer.

4. 'Fee.' A nonrefundable guest instructor application and approval fee of \$50 for up to 2 topics for which approval is sought and a fee of \$20 per topic beyond 2. The application and approval fee includes the cost of approval for up to 12 months.

Note: For a copy of the Department's application form for approval of a guest instructor, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711. Return the completed application to the same office.

(c) *Approval procedures.* 1. Within 10 work days after the submission of all required application information, including acceptable documentation of training, education and experience, the department shall either grant or deny approval for an applicant to be a guest instructor.

2. If approval is granted, the department shall send the applicant written notification of approval.

3. If approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

(d) *Length of approval.* Subject to compliance with this chapter, the department may grant guest instructor approval which shall be valid for up to 12 months and shall expire annually at 12:01 a.m. on November 1.

(e) *Renewal of approval.* 1. 'Application.' The department may extend a guest instructor's approval if the guest instructor

applies for renewal of approval by submitting to the department both of the following:

a. A completed application for renewal of approval. The application shall include the applicant's social security number.

b. An annual approval renewal fee of \$10 per topic. The department shall refund the approval renewal fee if approval is denied and is not appealed or is appealed and the denial is upheld.

2. 'Decision.' a. Within 10 work days after the submission of all required application information, the department shall either grant or deny approval.

b. If renewal of approval is granted, the department shall send the applicant written notification of approval.

c. If renewal of approval is denied, the department shall give the applicant reasons in writing why the application was denied and shall notify the applicant of the right to appeal the determination under s. HFS 163.33.

3. 'Duration.' Subject to compliance with this chapter, the department may renew guest instructor approval for up to 12 months. Renewal of guest instructor approval shall expire at 12:01 a.m. on November 1.

(5) **EQUIVALENT TRAINING AND EXPERIENCE.** The department may approve training, education and experience qualifications other than those in this section if the department, following consideration and evaluation of them on a case-by-case basis, finds that the qualifications are substantially equivalent to and as protective of human health and the environment as the requirements of this section.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.25 Administrative responsibilities of training managers. (1) **ADVERTISING.** The training manager for an accredited training course shall ensure that any advertisement for the course includes the same name and address of the course provider as appears on the application for accreditation or as later changed by notice to the department under sub. (5).

(2) **CESSATION OF TRAINING.** The training manager shall notify the department when the training provider for an accredited training course closes or when the course will no longer be offered and shall provide the department an opportunity to take possession of any relevant training records.

(3) **COURSE SCHEDULE NOTIFICATION.** (a) *Requirement for notification.* A training manager shall notify the department in writing on a form obtained from or approved by the department whenever an accredited training course has been scheduled.

Note: To obtain a course schedule notification form, write or phone the Bureau of Occupational Health, Room 117, 1414 E. Washington Avenue, Madison, WI 53703-3043; (608) 261-6876 or fax (608) 266-9711.

(b) *Notification content.* The notice shall include all of the following:

1. The name of the training provider.

2. The discipline and whether it is an initial or refresher course.

3. The date and location of the course.

4. The name of the principal instructor.

5. The name of any guest instructors.

6. The topics each guest instructor listed will teach or the areas in which the guest instructor will assist.

(c) *Timing of notification.* 1. The notice shall be submitted to the department a minimum of 10 work days prior to the course starting date.

2. In an emergency, the training manager shall notify the department of a scheduled training course by telephone or fax a minimum of one work day prior to the start of the course.

(d) *Revised notification.* The training manager shall notify the department by telephone or fax a minimum of one work day prior to the scheduled start date of a course when the course is canceled or when the date or location of the course has changed. The

department may restrict the use of advance notification submitted in the form of lists of intended courses and may require individual course-by-course notification when a training manager fails to notify the department of revisions in a timely manner.

Note: To notify the Department about a course scheduled on an emergency basis or to revise a notification, phone (608)261-6876 or fax (608)266-9711.

(4) NONDISCRIMINATION IN TRAINING. Access to an accredited training course may not be denied solely on account of age, sex, race, color, creed, national origin, ancestry, sexual orientation or disability.

(5) NOTIFICATION OF CHANGES. The training manager shall notify the department in writing of the following changes:

(a) *Change of address.* A change of address of the training provider or the location of records required under sub. (7). Notification shall be made a minimum of 10 work days prior to the change.

(b) *Change of name.* A change in the name of the training provider, as soon as possible prior to the change.

(c) *Change of ownership.* A change in the ownership of the course provider, as soon as possible. The accreditation of a training course under this subchapter is not transferable to a new owner. Upon a change of ownership, all training courses associated with the original owner are no longer accredited.

(e) *Change in a course.* A change in the training course description under s. HFS 163.21(2), the training resources under s. HFS 163.21 (3), the course registration plan under s. HFS 163.21 (5) or course materials under s. HFS 163.21 (6), a minimum of 10 work days prior to the start of the course. In addition to the notification of a change in course materials under s. HFS 163.21 (6), the training manager shall submit a draft of the revised document. After reviewing the draft revision, the department may allow a trial period of 3 class sessions of a training course before requiring submittal of a final revision.

(f) *Change of training manager.* A change in training manager, a minimum of 5 work days before the change takes effect for an approved training manager and a minimum of 15 work days for a new training manager for whom approval is being sought under s. HFS 163.24 (2). When a training course does not have an approved training manager, the course may not be offered.

Note: To notify the Department of changes, write the Bureau of Occupational Health, Room 117, 1414 E. Washington, Madison, WI 53703-3043 or fax changes to (608)266-9711.

(g) *Change of instructor.* A change in instructor, a minimum of 5 work days before the start of the course for an approved principal or guest instructor and a minimum of 20 work days before the start of the course for a new principal instructor for whom approval is being sought under s. HFS 163.24 (3) and a minimum of 15 work days before the start of the course for a new guest instructor for whom approval is being sought under s. HFS 163.24 (4). When a designated instructor becomes unavailable due to an emergency, such as illness, death or other family crisis, the training manager shall notify the department of a change in instructor by telephone or fax before the start of the course.

(6) PERMISSION TO AUDIT. The training manager shall permit department representatives to attend, evaluate and monitor any accredited training course and have access to records associated with any accredited training course at any reasonable time without charge or hindrance to the department for the purpose of an accreditation audit or any other evaluation of compliance with this chapter and any other applicable statute or regulation.

(7) RECORDS. (a) *Requirement to retain records.* The training manager shall ensure that the provider offering an accredited training course retains the records in par. (b) at its principal place of business in Wisconsin. If no office is maintained in Wisconsin, records shall be retained at the office location closest to Wisconsin. Records shall be retained for a minimum of 3 years 6 months and shall be given to the department upon request.

(b) *Records to be retained.* The following records shall be retained:

1. Copies of all documents that demonstrate the qualifications of the training manager, principal instructors and guest instructors approved under s. HFS 163.24.

2. A copy of each instructor and student manual, course test, course test blueprint, all printed materials used in the course, other training material and any document reflecting changes made to any material.

3. The scored course test for all students who passed or failed.

4. A copy of each student's training certificate.

5. Documentation of training manager, principal instructor and guest instructor qualifications.

6. Class rosters and student attendance records.

7. The quality control plan, including documentation of activities performed in compliance with the quality control plan.

8. Information regarding how the hands-on assessment is conducted, including, but not limited to, all of the following:

a. Who conducts the assessment.

b. How the skills are graded.

c. What facilities are used.

d. The pass and fail rate.

9. Results of the students' hands-on skills assessments.

10. Any other material submitted to the department as part of the application for accreditation or later at the request of the department to provide a basis for granting accreditation.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

Subchapter IV — Enforcement

HFS 163.30 General provisions. (1) DEPARTMENTAL ACTION. The department may initiate an action in the name of this state against any person to require compliance with this chapter or for failure to comply.

(2) OTHER AGENCY ACTION. Any other state agency in the course of the performance of its duties may determine that an individual, lead (Pb) company or training provider has violated or is violating one or more requirements of this chapter. If that agency determines that there is a potential violation of this chapter, the agency may notify the department of that potential violation. The department may delegate all or part of its enforcement authority to any other state or federal agency through a memorandum of understanding.

(3) AUTHORITY TO INVESTIGATE. (a) Whenever the department is advised or has reason to believe that any person is violating or has violated any provision of this chapter, the department may make an investigation to determine the facts. For purposes of this investigation, the department shall have authority to inspect the premises where the violation is alleged to be occurring or to have occurred.

(b) An authorized representative of the department may enter a dwelling, child-occupied facility or real property where an activity regulated under this chapter is being conducted or where a person regulated under this chapter conducts business. The representative may conduct tests, take samples, review work practices, review and copy records and perform other activities necessary to determine compliance with this chapter. No person may refuse to establish or maintain records under s. HFS 163.14 (9), refuse to provide or copy records, or refuse to permit entry or access to an authorized representative of the department if that representative presents a valid identification issued to the representative by the department and if that representative is complying with par. (a). No person may obstruct, hamper or interfere with the actions of that representative under this paragraph.

(c) An authorized representative of the department may conduct an audit under s. HFS 163.22 (6) for the purpose of ascertaining whether or not an accredited training course continues to meet requirements for accreditation.

(d) An authorized representative of the department entering a premises under this subsection shall present identification and any authorization issued by the department and shall comply with applicable health and safety procedures established by law.

(4) REFERRAL TO DISTRICT ATTORNEY. The department may report any violation of this chapter or orders issued under this chapter to the district attorney of the county in which the dwelling is located. Pursuant to s. 254.30, Stats., the district attorney shall enforce this chapter or orders issued under this chapter upon receiving a report from the department or from the department's designee under s. 254.152, Stats.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.31 Reasons for enforcement actions.

(1) EXECUTION OF A CONSENT AGREEMENT. In addition to an administrative or judicial finding of violation, execution of a consent agreement in settlement of an enforcement action constitutes, for purposes of this section, evidence of a failure to comply with relevant statutes or rules.

(2) REASONS FOR ACCREDITATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person offering or conducting a training course that is required to be accredited under this chapter if the person has violated any provision of this chapter. Reasons for accreditation enforcement actions may include, but are not limited to, one or more of the following violations:

(a) Submitted a check to the state that was not paid by the bank on which it was drawn.

(b) Deceptively issued or used training certificates.

(c) Misrepresented a training course or the contents of a training course to the department, EPA, another EPA-authorized state, an EPA-authorized tribe or the student population.

(d) Made false or misleading statements to the department in its application for accreditation or reaccreditation which the department relied upon in approving the application.

(e) Falsified accreditation records, instructor qualifications or other accreditation-related information or documentation.

(f) Offered or conducted a course that failed to meet one or more requirements of this chapter.

(g) Failed to comply with the accreditation standards and requirements in subch. III.

(h) Failed or refused to establish, maintain, provide, copy or permit access by an authorized representative of the department to records or reports.

(i) Failed to submit required information or notifications to the department in a timely manner.

(j) Failed to comply with any other federal, state or local lead-based paint statute, ordinance, rule or regulation.

(k) Failed or refused to permit a department representative entry to a training course without charge or hindrance to attend, evaluate or monitor the course.

(3) REASONS FOR APPROVAL ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a person required to be approved as a training manager, principal instructor or guest instructor under this chapter if the person has violated any provision of this chapter. The reason for an approval enforcement action may include, but is not limited to, one or more of the following violations:

(a) The training manager, principal instructor or guest instructor has violated a provision of this chapter or any related state, federal or local statute, ordinance, rule or regulation.

(b) The training manager, principal instructor or guest instructor has misrepresented his or her credentials or documentation of qualifications submitted to the department as the basis for approval.

(4) REASONS FOR CERTIFICATION ENFORCEMENT ACTIONS. The department may take an action under s. HFS 163.32 against a per-

son required to be certified under this chapter, whether an individual or a lead (Pb) company, if the person has violated any provision of this chapter. Reasons for certification enforcement actions may include, but are not limited to, one or more of the following violations:

(a) Submitted a check to the state that was not paid by the bank on which it was drawn.

(b) Used a training certificate that was issued by a training manager without attending an appropriate course or an entire course or without passing an approved course test.

(c) Obtained training documentation through fraudulent means.

(d) Gained admission to and completed an accredited training program through misrepresentation of admission requirements.

(e) Was a certified lead inspector, risk assessor or supervisor and failed to pass the certification examination under s. HFS 163.10 (3) (c) prior to August 31, 1999, as required under s. HFS 163.13 (3).

(f) Misrepresented facts or made false or misleading statements in applying for certification.

(g) Obtained certification through misrepresentation of certification requirements or related documents dealing with education, training, professional registration or experience.

(h) Permitted the duplication, without labeling the duplicate a "copy," when labeling is required or permitted the use of one person's training certificate, certification card or other certification document by another.

(i) Withheld or confiscated an employee's training certificate or certification card.

(j) Performed work requiring certification at a job site without having proof of certification onsite.

(k) Performed, advertised, claimed to provide or offered to perform or supervise work for which certification is required but for which appropriate certification had not been received.

(L) Performed work using individuals who were not certified when certification was required.

(m) Failed or refused to establish, maintain, provide, copy or permit access to records or reports by an authorized representative of the department.

(n) Failed or refused to permit entry or inspection by an authorized representative of the department.

(o) Failed or refused to comply with or to ensure that employed or contracted staff comply with the work practice standards established in s. HFS 163.14.

(p) Displayed conduct relating to a lead-based paint activity which in the department's judgment constitutes unreasonable risk to the health of any person.

(q) Displayed a pattern of conduct which in the department's judgment constitutes unreasonable risk to the health and safety of persons or the environment.

(r) Failed the mandatory certification examination 3 times in a 6-month period certified as an inspector, risk assessor or supervisor.

(s) Failed to comply with any federal, state or local government lead-based paint statute, ordinance, rule or regulation.

(5) REASONS FOR DENIAL. In addition to reasons for enforcement actions under subs. (1) to (4), the department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval under this chapter to any of the following persons:

(a) A person who has had a certification, recertification, accreditation, renewal of accreditation or approval under this chapter revoked within the previous 5 years.

(b) A person who the department has determined is not fit and qualified. In determining whether a person is fit and qualified, the department shall consider the person's qualifications and any his-

tory of civil or criminal violation of statutes, regulations or ordinances of the United States, this state, any other state or any local government substantially related to lead-based paint activities or other environmental remediation.

(6) REASONS FOR SUMMARY SUSPENSION. A finding of a requirement for summary suspension may be based on but is not limited to any the following:

(a) A person has committed a substantial violation of this chapter or an order under this section, as determined by the department. A substantial violation may include but is not limited to one or more of the following:

1. Performance of work for which certification is required but for which appropriate certification was not received.

2. Performance of work using individuals who were not certified when certification was required.

3. Failure or refusal to comply with the work practice standards under s. HFS 163.14, or to ensure that employed or contracted staff comply with those work practice standards.

(b) A person has committed an action or has created a condition relating to a lead-based paint activity that directly threatens the health, safety or welfare of any person.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.32 Enforcement actions. The department may take one or more of the following actions against a certified individual or lead (Pb) company, an approved training manager or instructor, a person offering an accredited training course or a person required to comply with a provision of this chapter for any reason stated under s. HFS 163.31:

(1) LETTER OF INQUIRY. If the department provides written notice of the grounds for an inquiry and an explanation of the consequences for failing to respond to an inquiry, the department may order a person to respond to a letter of inquiry regarding a complaint or potential violation.

(2) NOTICE OF NONCOMPLIANCE. If the department provides written notice of the grounds for a notice of noncompliance, the department may issue a notice of noncompliance against a person who fails to comply with a provision under this chapter or who fails to respond to a letter of inquiry under sub. (1) by the time specified in the letter of inquiry.

(3) ORDER. If the department provides written notice of the grounds for an order and an explanation of the process for appealing an order imposed under this subsection, the department may order any of the following when a person violates a provision under this chapter or continues to violate or resumes violation of a provision for which notice under sub. (2) was previously issued:

(a) That the person stop performing, supervising, advertising, claiming to provide or offering activities for which certification is required under this chapter when the person is not certified under this chapter.

(b) That the person advertising or conducting a training course that is represented as qualifying persons for certification under this chapter stop advertising or conducting the course when the course or training provider is not accredited or approved under this chapter.

(c) That the person not function as a principal instructor, guest instructor or training manager of a lead training course when the person is not approved under this chapter.

(d) That the person stop violating any other provision of this chapter.

(e) That the person submit a plan of correction for violation of any provision under this chapter.

(f) That the person implement and comply with a plan of correction provided by the department or previously submitted by the person and approved by the department.

(g) That the person stop performing or supervising activities for which certification is required under this chapter until all vio-

lations are corrected. The order may require all activities on the premises that are regulated under this chapter to cease until the violation is corrected.

(h) That the person stop advertising or conducting a training course accredited or approved under this chapter until all violations are corrected.

(4) DENIAL. If the department provides an applicant with a written notice of its decision to deny the application, including the reason for the denial and an explanation of the process under s. HFS 163.33 for appealing the denial, the department may deny an application for certification, recertification, accreditation, renewal of accreditation or approval for a reason under s. HFS 163.31 (5).

(5) CIVIL FORFEITURE. If the department provides written notice of the grounds for a forfeiture and an explanation of the process under s. HFS 163.33 for appealing a forfeiture, the department may impose a daily forfeiture of not less than \$100 nor more than \$1,000 for each violation against any person who violates a provision under this chapter, fails to respond to a letter of inquiry under sub. (1) by the time specified in the order, continues to violate or resumes violation of a provision for which notice under sub. (2) was previously issued or fails to comply with an order issued under sub. (3) by the time specified in the letter. All of the following apply to a civil forfeiture:

(a) The department may directly assess a forfeiture by specifying the amount of the forfeiture in the notice provided under this subsection.

(b) A person against whom the department has assessed a forfeiture shall pay that forfeiture to the department within 10 days after receipt of notice of the assessment or, if that person contests that assessment under s. HFS 163.33, within 10 days after receipt of the final decision after exhaustion of administrative review or, if that person petitions for judicial review under ch. 227, Stats., within 10 days after receipt of the final decision after exhaustion of judicial review. The department shall remit all forfeitures paid under this subsection to the state treasurer for deposit in the school fund.

Note: The attorney general may bring an action in the name of the state to collect any forfeiture imposed under this subsection that has not been paid as provided in par. (b).

(6) SUSPENSION. If the department provides written notice of suspension, the grounds for suspension and an explanation of the process under s. HFS 163.33 for appealing a suspension not less than 30 days before the date of the suspension, and the violation on which the suspension is based remains substantially uncorrected at the end of the 30-day notice period, the department may suspend a certification, an accreditation or an approval issued under this chapter. Any suspension of a certification, accreditation or approval shall remain in effect until the department determines the interests of the residents of the state are served.

(7) SUMMARY SUSPENSION. (a) Under the authority of s. 227.51 (3), Stats., the department may summarily suspend a certification when the department finds that this action is required to protect the health, safety or welfare of any person. A finding of a requirement for summary suspension may be based on but is not limited to one or more reasons under s. HFS 163.31(6).

(b) An order by a representative of the department to summarily suspend certification of a person and therefore stop a lead-based paint activity may be a verbal or written order. Within 7 work days after the order takes effect, the department shall either permit the continuation of the lead-based paint activity or initiate proceedings to revoke the certification. Unless waived by the certified person, an informal hearing on the sole issue of whether certification shall remain suspended during revocation proceedings shall be conducted by a department designee within 15 work days after the date of suspension if the department has initiated revocation proceedings.

(8) REVOCATION. If the department provides written notice of revocation, the grounds for revocation and an explanation of the process under s. HFS 163.33 for appealing a revocation not less than 30 days before the date of the revocation, and the violation on which the revocation is based remains substantially uncorrected at the end of the 30-day notice period, the department may revoke a certification, an accreditation or an approval issued under this chapter.

Note: Pursuant to s. 254.30 (2) (b), any person who knowingly violates any provision of this chapter or an order issued under sub. (3) shall be fined not less than \$100 nor more than \$5,000 per day for each violation. The court may also place the person on probation under s. 973.09, Stats., for a period not to exceed 2 years.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.

HFS 163.33 Appeal. (1) RIGHT TO APPEAL. An action taken by the department under s. HFS 163.32 is subject to administrative review under ch. 227, Stats.

(2) APPEALS PROCESS. To request a hearing under ch. 227, the aggrieved person shall send to the Wisconsin department of administration's division of hearings and appeals a written request for a hearing within 10 work days after the date of the department's action. A hearing request is considered filed when received by the division of hearings and appeals. A hearing request filed more than 10 work days after the date of the department's action will be denied.

Note: The mailing address of the Division of Hearings and Appeals is P.O. Box 7875, Madison, WI 53707.

(3) ADMINISTRATIVE HEARING. The division of hearings and appeals shall hold an administrative hearing under s. 227.42, Stats., within 30 calendar days after receipt of the request for the administrative hearing unless the aggrieved person consents to an extension of that time period. Judicial review of the department's decision may be had as provided in ch. 227.52, Stats.

History: Cr. Register, April, 1999, No. 520, eff. 5-1-99.